Transforming Wartime Contracting

Controlling costs, reducing risks

COMMISSION ON WARTIME CONTRACTING
IN IRAQ AND AFGHANISTAN

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FOREWORD

Contractors represent more than half of the U.S. presence in the contingency operations in Iraq and Afghanistan, at times employing more than a quarter-million people. They have performed vital tasks in support of U.S. defense, diplomatic, and development objectives. But the cost has been high. Poor planning, management, and oversight of contracts has led to massive waste and has damaged these objectives.

The volume and complexity of contract actions have overwhelmed the ability of government to plan for, manage, and oversee contractors in theater. Contracting decisions made during urgent contingencies have often neglected the need to determine whether host-nation governments can or will sustain the many projects and programs that U.S. contracts have established in their countries.

Americans' "Can do!" response to the challenge of contingency operations is admirable, but human and financial resources have limits, and long-term costs are seldom considered when short-term plans are being framed. Much of the waste, fraud, and abuse revealed in Iraq and Afghanistan stems from trying to do too much, treating contractors as a free resource, and failing to adapt U.S. plans and U.S. agencies' responsibilities to host-nation cultural, political, and economic settings.

This final report to Congress summarizes the Commission's work since 2008 and offers 15 strategic recommendations that it believes warrant prompt action.

Delay and denial are not good options. There *will* be a next contingency, whether the crisis takes the form of overseas hostilities or domestic response to a national emergency like a mass-casualty terror attack or natural disaster.

Reform will save lives and money, and support U.S. interests. Reform is essential. Now.

Continuing access to Commission resources

The Commission on Wartime Contracting in Iraq and Afghanistan will, by statutory mandate, cease operations at the end of September 2011.

The Commission's public website, **www.wartimecontracting.gov**, will not be updated after September, but will continue to provide public access to Commission reports, hearing documents, news releases, and other material.

The Commission's electronic and paper records will be turned over to the National Archives and Records Administration for preservation.

COMMISSION ON WARTIME CONTRACTING
IN IRAQ AND AFGHANISTAN

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Controlling costs, reducing risks

Final report to Congress
Findings and recommendations for legislative and policy changes

COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN
A bipartisan congressional commission

AUGUST 2011

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About the Commission

Congress created the independent, bipartisan Commission on Wartime Contracting in Iraq and Afghanistan in 2008 (Public Law 110-181) to assess contingency contracting for reconstruction, logistics, and security functions; examine the extent of waste, fraud, and abuse; and provide recommendations to Congress to improve the structures, policies, and resources for managing the contracting process and contractors.

The Commission filed interim reports to Congress in June 2009 and February 2011, and has also issued five special reports. The reports, including this final report and other materials such as hearing transcripts, are posted at www.wartimecontracting.gov.

EXECUTIVE SUMMARY

At least $31 billion, and possibly as much as $60 billion, has been lost to contract waste and fraud in America's contingency operations in Iraq and Afghanistan. Much more will turn into waste as attention to continuing operations wanes, as U.S. support for projects and programs in Iraq and Afghanistan declines, and as those efforts are revealed as unsustainable.

This sobering, but conservative, estimate flows from nearly three years' work by the Commission on Wartime Contracting in Iraq and Afghanistan, an independent and bipartisan panel created by Congress in 2008 to examine waste, fraud, abuse, accountability, and other issues in contingency contracting, and to make recommendations for improvement.

Much of the contingency-contract waste and fraud could have been avoided. Unless changes are made, continued waste and fraud will undercut the effectiveness of money spent in future operations, whether they involve hostile threats overseas or national emergencies here at home requiring military participation and interagency response. Responsibility for this state of affairs lies with Congress, the White House, federal departments, the military services, agency leadership, contractors, and individuals who abuse the system.

Contract waste, fraud, and abuse take many forms:

- An ill-conceived project, no matter how well-managed, is wasteful if it does not fit the cultural, political, and economic norms of the society it is meant to serve, or if it cannot be supported and maintained.
- Poor planning and oversight by the U.S. government, as well as poor performance on the part of contractors, have costly outcomes: time and money misspent are not available for other purposes, missions are not achieved, and lives are lost.
- Criminal behavior and blatant corruption sap dollars from what could otherwise be successful project outcomes and, more disturbingly, contribute to a climate in which huge amounts of waste are accepted as the norm.

This final report documents the Commission's extensive research, hearings, meetings and briefings, domestic and overseas travel, and the work of professional staff stationed full-time at Commission offices in Baghdad and Kabul. The Commission's observations, findings, and key recommendations are organized under broad contingency-contracting themes. A complete list of recommendations from all of the Commission's reports to Congress appears in Appendix A.

Agencies over-rely on contractors for contingency operations

Forced to treat contractors as the default option because federal agencies lack the organic capacity to perform some mission-critical functions, the government also lacks the acquisition personnel and structures needed to manage and oversee an unprecedentedly large contractor force that at times has outnumbered troops in the field.

The consequences have been:

- extending contracting to activities that law, policy, or regulation require government personnel to perform;
- creating unreasonable risks to mission objectives and other key U.S. interests;
- eroding federal agencies' ability to perform core capabilities; and
- overwhelming the government's ability to effectively manage and oversee contractors.

Spending on contracts and grants performed in Iraq and Afghanistan in support of operations in those countries is expected to exceed $206 billion through the end of fiscal year (FY) 2011. The money goes to two categories of activities: first, support of U.S. operations, such as logistics; and second, direct execution of programs like training host-country military and police forces. Construction projects fall into both categories. Contracts are awarded and managed in various locations—in country, in other countries in the region, and at various buying commands in the United States.

The number of Department of Defense (Defense), Department of State (State), and the U.S. Agency for International Development (USAID) contractor employees in Iraq and Afghanistan has varied, but exceeded 260,000 in 2010. The contractor-employee count has at times surpassed the number of U.S. military personnel in the two countries. Most contractor employees are third-country nationals and local nationals; U.S. nationals totaled more than 46,000, a minority of those employed.

Although contract activity has taken on increasing importance, the resources devoted to managing contracts and contractors have not kept pace. The number of contract specialists—an occupation critical to the execution of contingency contracting—rose by only 3 percent government-wide between 1992 and 2009, despite an enormous increase in contracting activity during that period.

Because the heavy reliance on contractors has overwhelmed the government's ability to conduct proper planning, management, and oversight of the contingency-contracting function, the Commission concludes that the government is *over*-reliant on contractors.

'Inherently governmental' rules do not guide appropriate use of contractors in contingencies

The "inherently governmental" standard in law, policy, and regulation that reserves certain functions for government personnel provides insufficient guidance for contracting in contingencies. Nor does it enable officials to decide whether contracting for non-governmental functions is *appropriate* or prudent in contingency operations.

Events in Iraq and Afghanistan have shown that systematic consideration of operational, political, and financial risks must be a factor in judging appropriateness, as opposed to assuming that any task not deemed inherently governmental is automatically suitable for performance by contract.

The Commission endorses the context-sensitive, risk-sensitive, and mission-sensitive approach taken by the Office of Federal Procurement Policy's March 2010 draft policy letter on this topic, and recommends vigorously applying this guidance to the unique contingency-contracting environment.

Applying risk and other situational considerations to a contingency may indicate that a particular task should not be contracted. For such cases, the government needs in-house options beyond canceling or postponing activities, such as having qualified, expandable, and deployable federal cadres for stabilization-and-reconstruction functions.

In Afghanistan, for instance, carrying out stabilization-and-reconstruction projects in insurgent-contested areas with contractor employees has led to deaths, delays, and waste. If agencies had trained, experienced, and deployable cadres for stabilization-and-reconstruction functions in high-risk areas of contingency operations, the government would have an alternative to contracting for those functions.

RECOMMENDATION 1

Use risk factors in deciding whether to contract in contingencies

In those cases where performance by contract is appropriate, the government must provide acquisition management and contractor oversight. Relying on contractors to perform these functions is especially risky, and can give rise to potential or actual conflicts of interest. The use of contractors to manage other contractors reveals a failure of government to provide for a sufficient contingency workforce.

RECOMMENDATION 2

Develop deployable cadres for acquisition management and contractor oversight

The use of private security companies can present especially sensitive risks, because their armed employees can become involved in incidents that injure or endanger innocent civilians. In addition, their use for convoy security in parts of Afghanistan invites pay-for-protection extortion that diverts taxpayers' funds to local warlords and insurgents.

Another essential task would be to assess the risk of using contractors for static security at bases and camps, particularly the risk of using local nationals for that task. If commanders judge the risks of using contractors, or more specifically using local nationals, to be unacceptable, then military forces or third-country nationals would provide static security. On the basis of operational, financial, and political risks, performance by contractors for some security tasks should be phased out.

RECOMMENDATION 3

Phase out use of private security contractors for certain functions

Agencies must provide greater control and accountability for security contracting, starting with documenting an interagency understanding of lessons learned in Iraq and Afghanistan, agreeing on best practices, and providing overall guidance for security functions in future contingencies.

Defense, State, and USAID should develop and enter into a standing interagency Memorandum of Agreement (MOA), incorporating lessons and best practices learned in Iraq and Afghanistan, to provide guidance in use of private security contractors now and in future contingencies. Such an MOA would be modified as needed soon after the start of a declared combat operation or other contingency to address the particular circumstances of that operation.

At the operational level, ambassadors, USAID mission directors, and military commanders should be responsible for making, publicizing, and revising their determinations of security-contracting appropriateness as conditions change. These officials should also apply greater emphasis to security-contractor vetting, training, weapons authorization and control, and oversight.

RECOMMENDATION 4

Improve interagency coordination and guidance for using security contractors in contingency operations

Inattention to contingency contracting leads to massive waste, fraud, and abuse

Engaging in contingency operations is not cheap. But U.S. operations in Iraq and Afghanistan have entailed vast amounts of spending for little or no benefit. That is waste. The Commission's conservative estimate of waste and fraud ranges from $31 billion to $60 billion based on contract spending from FY 2002 projected through the end of FY 2011.

Failure to curb contract-related waste, fraud, and abuse is a breach of agencies' fiduciary duty to efficiently manage budgets and resources. Worse still, it undermines U.S. defense, diplomatic, and development missions.

Waste in contract outcomes has been driven by factors at the host-country level, at the program and project level, and at the individual-contract level.

- At the host-country level, U.S. officials lack an understanding of the need to reconcile short-term military and longer-term development goals and objectives, realistically assess host-country conditions and capabilities, and work within the constraints of local economies' absorptive capacity for influxes of cash. These deficiencies have contributed to costly and failed contract outcomes.
- At the program and project level, agencies have not sufficiently integrated their programs and projects with one another and with other donors, or paid adequate attention to the cost and management implications of poor security conditions. These shortcomings have doomed numerous acquisition strategies. Inadequate competition and lack of knowledge of local contractor and sub-contractor companies are major contributors to contracting waste.

- At the contract level, there is a frequent failure to define requirements within reasonable timeframes and to assign appropriate management and oversight resources. Without sufficient management and oversight, officials have been late to identify and correct poor contractor performance. Key deficiencies include idle contractor personnel, defective construction, and inadequate protection of property and personnel.

Numerous examples from Commission travel, hearings, and research have demonstrated serious incidents of waste at every phase of the contingency acquisition process, from project selection and requirements definition, through solicitation and vetting, to management and oversight. Problems are widespread and endemic.

Looming sustainment costs risk massive new waste

A particularly troubling outcome of the Commission's examination of waste is that billions of dollars already spent, including spending on apparently well-designed projects and programs, will turn into waste if the host governments cannot or will not commit the funds, staff, and expertise to operate and maintain them.

Money lost as a result of the inability to sustain projects could easily exceed the contract waste and fraud already incurred. Examples range from the $35 billion that Congress has appropriated since 2002 to train, equip, and support the Afghan National Security Forces, to scores of health-care centers in Iraq that far exceed the Ministry of Health's ability to maintain them.

Officials have often not examined programs and projects for sustainability, or taken appropriate action to cancel or redesign those that have no credible prospect of being sustained. Requirements and acquisition strategies for projects or services to be handed over to a host nation have often lacked a detailed assessment of long-term costs and of host nations' ability and willingness to fund them. There is, moreover, no current requirement that officials analyze sustainability risks and report their findings and risk-mitigation strategies.

RECOMMENDATION 5

Take actions to mitigate the threat of additional waste from unsustainability

Agencies have not institutionalized acquisition as a core function

Acquisition officials have become more knowledgeable and vocal about the extent and nature of the problems in contingency contracting, yet agencies are slow to change.

Meaningful progress will be limited as long as agencies resist major reforms that would elevate the importance of contracting, commit additional resources to planning and managing contingency contracting, and institutionalize best practices within their organizations.

Defense has promulgated important policy and doctrinal changes. However, the structure needed to force important lessons learned through the system and the authority to enable resource shifts to support the acquisition process does not exist. More than half of Defense's contract spending is for services and not for hardware procurement. Yet Defense's culture and processes remain focused on weapons systems. This imbalance in focus is particularly risky in the context of operations in Iraq and Afghanistan, where 66 percent of contract spending is for services.

In contrast to Defense's omission of contingency contracting in its Quadrennial Defense Review, State offered some encouraging comments about the importance of contracting in its 2010 Quadrennial Diplomacy and Development Review. But State has not fully recognized or implemented many of the needed changes. Therefore, significant additional waste—and mission degradation to the point of failure—can be expected as State continues with the daunting task of transition in Iraq.

USAID has made procurement reform part of its agency-wide improvement initiatives. However, it is still far from achieving the cultural change needed to make reforms a reality. Both State and USAID will face additional contract-management challenges in Afghanistan as U.S. military forces begin to withdraw.

Changes in agency structures and practices affect culture and behavior, but cannot have deep and lasting impact without the full involvement of senior leadership. Effective leaders provide attention, focus, visibility, motivation, and energy to the process of improvement and to the daily work of delivering results. They reward success, correct failure, and punish misconduct.

Contingency-contracting reform demands active and sustained attention from senior agency leaders that transcends succession in office and changes in administration.

Raising the profile and authority of civilian and military leaders responsible for contingency contracting would boost the impact of the reform effort and provide some measure of accountability.

RECOMMENDATION 6

Elevate the positions and expand the authority of civilian officials responsible for contingency contracting at Defense, State, and USAID

RECOMMENDATION 7

Elevate and expand the authority of military officials responsible for contingency contracting on the Joint Staff, the combatant commanders' staffs, and in the military services

Agency structures and authorities prevent effective interagency coordination

The misalignment of organizational structures and authorities impedes interagency coordination and cooperation for contingency contracting. This misalignment leads to duplication of effort, gaps in continuity, improper phasing of operations, and waste.

Defense has well-established arrangements for ensuring joint operations, but there is no effective whole-of-government equivalent, particularly where international diplomacy and development are concerned. The Commission proposes new positions and authorities that would improve coordination and cooperation, including alignment of agency budgets, especially among Defense, State, and USAID.

Currently no one person has the authority to ensure that each relevant agency has the necessary financial resources and policy oversight, as appropriate, to carry out its contingency-related mission, and to ensure that agencies' budgets are complementary rather than duplicative or conflicting.

RECOMMENDATION 8

Establish a new, dual-hatted senior position at OMB and the NSC staff to provide oversight and strategic direction

Improving agency planning, readiness, and performance would be greatly facilitated by creating a permanent office of special inspector general for contingency operations. The authority of existing inspectors general is either limited by department (Defense, State, and USAID) or restricted by time and function (the temporary special inspectors general for Iraq and Afghanistan are focused on reconstruction).

Having a small, but expandable, permanent inspector-general staff devoted to contingency operations would provide critical monitoring from the onset of a contingency, permit collaboration with agency inspectors general to regularly assess the adequacy of agency planning and coordination for contingencies, and provide a logical center for developing and coordinating needed training among agencies.

RECOMMENDATION 9

Create a permanent office of inspector general for contingency operations

Contract competition, management, and enforcement are ineffective

Agencies have failed to set and meet goals for competition in Iraq and Afghanistan. In particular, they have awarded task orders for excessive durations without adequate competition. The agencies have failed to set and meet goals for competition and have repeatedly:

- awarded long-term task orders that were not recompeted when competitive conditions improved;
- extended contracts and task orders past their specified expiration dates, increased ceilings on cost-type contracts and modified task orders and contracts to add extensive new work;
- favored using existing task- and delivery-order contracts like LOGCAP III over creating more competitive and more targeted contract vehicles; and
- used cost-reimbursable contract types even though simpler, fixed-price contracts could expand the competitive pool.

Dynamic contingency operations generate rapidly changing support requirements that must be met within short timeframes. Effective competition motivates contractors to provide fair pricing, best value, and quality performance. On the other hand, the tension between a contractor's motivation to make a

profit and the government's demand for good performance still exists. The lessons from contingency contracting in Iraq and Afghanistan are that agencies have not effectively employed acquisition-management strategies that balance the United States' interests with contractors' profitability objectives.

Several policies and practices hamper competition in a contingency environment. Despite a more mature contracting environment in Iraq and Afghanistan today, Defense, State, and USAID still do not consistently emphasize competitive contracting practices. Some of the agencies' acquisition strategies have restricted competition and favored incumbent contractors, even those with performance deficiencies.

RECOMMENDATION 10

Set and meet annual increases in competition goals for contingency contracts

Monitoring the performance of individual contractors is critical at all stages of the contracting process both to allow proper management and oversight and to obtain necessary information for making payments. Better collection, recording, and use of contractor performance data would significantly improve government contracting officials' ability to weed out poor performers and manage the contingency-contracting process.

RECOMMENDATION 11

Improve contractor performance-data recording and use

Suspension and debarment can be powerful tools to protect the government's interest in doing business only with contractors capable of performing their contractual obligations and maintaining acceptable standards. The opportunity costs of a suspension or debarment are very high for government contractors, and thus provide incentives for proper behavior. Nevertheless, agencies sometimes do not pursue suspensions or debarments in a contingency environment.

The challenge of fostering a culture of contractor accountability is especially difficult in war zones, where the contractor community is made up of U.S., local, and third-country nationals; where gathering a stable of responsible, competitive companies eligible for contract award is a challenge; where security threats hamper oversight; and where fluid operations drive changing requirements under short timeframes. Enforcement of laws, regulations, and contract terms serves two purposes: it addresses wasteful and fraudulent behavior, and it sets a standard for future performance.

More aggressive use of enforcement techniques for contracting would reduce the risk of awarding contracts to companies with questionable capability to perform. Expansion of investigative authority and jurisdiction would facilitate imposing effective accountability on contractors, especially foreign contractors and subcontractors who are difficult or impossible to subject to U.S. law. Increasing contractor accountability would also enhance protections against exploitation of persons.

RECOMMENDATION 12

Strengthen enforcement tools

A variety of weaknesses frustrate the U.S. government's ability to protect its—and federal taxpayers'—interest in economical and effective performance of contingency contracting:

- Agencies continue to lack sufficient staff and resources to enable adequate management of all aspects of contingency contracting. These include: financial management, acquisition planning, business-system reviews, source selection, incurred-cost audits, performance management, property management, contract payment, and contract close-outs. These shortfalls have been especially pronounced at key entities like the Defense Contract Management Agency and the Defense Contract Audit Agency. Indeed, at current staffing levels, DCAA's backlog of unaudited incurred costs will exceed $1 trillion in 2016.
- Inadequate contractor business systems for functions such as estimates, labor billing, and purchases impede the work of government management and oversight officials. Yet the government's authority to withhold contract payments on grounds of business-system inadequacy is limited.
- The government faces significant limitations in its authority to access contractor records that can be useful or essential for examining matters such as supervision of subcontractors.
- Agencies continue to struggle with an absence of strategic planning and lack a dedicated budget to support related human resources and information-systems requirements.

RECOMMENDATION 13

Provide adequate staffing and resources, and establish procedures to protect the government's interests

The way forward demands major reforms

The Commission's authorizing statute requires it to end operations by September 30, 2011. The work of crafting, securing, and implementing lasting reforms will require much more time.

Congress must issue mandates and provide resources for improved planning, management, and oversight capabilities if it expects significant change and real savings in contingency contracting. Given the federal budget outlook, the temptation will be powerful to postpone the investments needed to support contingency-contracting reform and thereby to avoid making hard choices.

Congress must resist that temptation and recognize preparedness for emergencies requiring contingency contracting is as much a national-security priority as procuring weapons systems.

RECOMMENDATION 14

Congress should provide or reallocate resources for contingency-contracting reform to cure or mitigate the numerous defects described by the Commission

Continued attention, monitoring, and advocacy may require congressional requests for subsequent evaluations and agency reporting, and the engagement of governmental or non-governmental organizations to continue to focus on contingency-contracting issues.

A forcing function is needed to ensure widespread and effective adoption of contingency-contracting reform. Otherwise, agency inertia, resistance to change, sporadic attention, personnel turnover, and a lack of sustained and focused leadership may combine into a powerful barrier that blocks progress. Effective implementation of reform requires establishing a method for periodic reporting on the status of the Commission's recommendations to keep the reform agenda in decision makers' field of vision.

RECOMMENDATION 15

Congress should enact legislation requiring regular assessment and reporting of agencies' progress in implementing reform recommendations

Conclusion

The need for reform is urgent. Over the past decade, America's military and federal-civilian employees, as well as contractors, have performed vital and dangerous tasks in Iraq and Afghanistan. Contractors' support however, has been unnecessarily costly, and has been plagued by high levels of waste and fraud.

The United States will not be able to conduct large or sustained contingency operations without heavy contractor support. Avoiding a repetition of the waste, fraud, and abuse seen in Iraq and Afghanistan requires either a great increase in agencies' ability to perform core tasks and to manage contracts effectively, or a disciplined reconsideration of plans and commitments that would require intense use of contractors.

Failure by Congress and the Executive Branch to heed a decade's lessons on contingency contracting from Iraq and Afghanistan will not avert new contingencies. It will only ensure that additional billions of dollars of waste will occur and that U.S. objectives and standing in the world will suffer. Worse still, lives will be lost because of waste and mismanagement.

The nation's security demands nothing less than sweeping reform.

U.S. and Iraqi soldiers, Mosul, Iraq. (U.S. Navy photo)

Chapter 1

Agencies over-rely on contractors for contingency operations

Agencies over-rely on contractors for contingency operations

Contingencies in general—and those in Iraq and Afghanistan in particular—are operations involving the U.S. military and civilian agencies, often requiring deployment of federal civilians and contractors under conditions that make freedom of movement dangerous, and entailing dynamic and rapidly changing support requirements.[1]

Defense undertakes the preponderance of activity in the Iraq and Afghanistan contingency operations, executes a majority of the transactions for contractor-support services, and is therefore the primary focus of the Commission's reform agenda. The Commission also assesses State and USAID, the other two federal agencies with a significant role in contingency-contracting operations, and addresses related areas of concern in this final report.

Patrol in Helmand Province, Afghanistan, 2009. (U.S. Marine Corps photo)

The Commission's assessment of contingency contracting focuses on the formation and execution of contracts and grants in support of the wartime missions in Iraq and Afghanistan. Despite this focus, the Commission's recommendations for reform have broader applications for peacetime contracting and affect future contingencies.

U.S. agencies engaged contractors at unprecedented levels to help achieve mission objectives in Iraq and Afghanistan and to support U.S. military service members and civilian employees deployed there. The failure to effectively prepare to rely on contractors became all too clear as these two contingencies

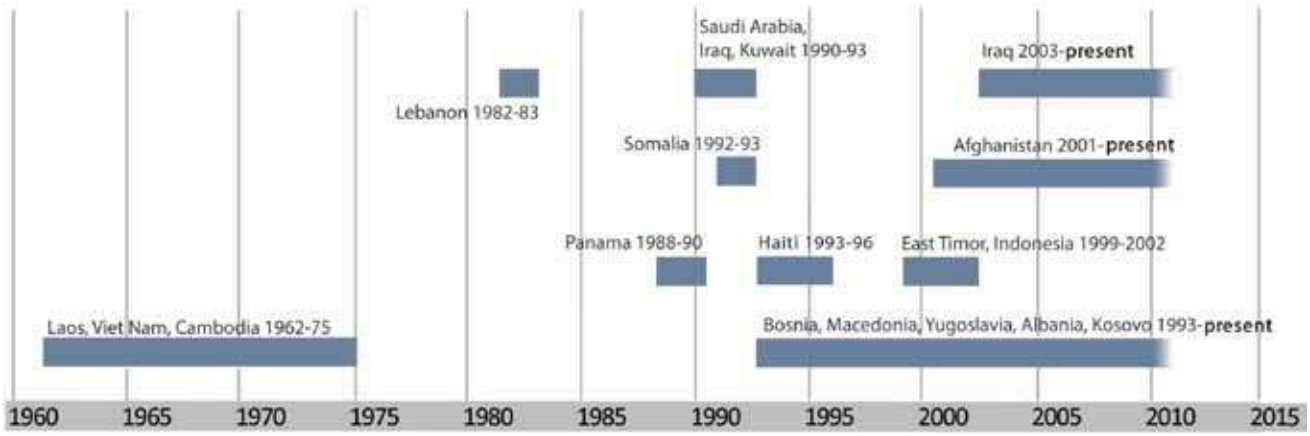
1. 10 U.S.C. 101(a)(13): This section defines a contingency operation as "a military operation that—(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (B) results in the call or order to, or retention on, active duty of members of the uniformed services under [other portions of this title] . . . or any other provision of law during a war or during a national emergency declared by the President or Congress." Civilian agencies' definitions of contingencies broadly reflect the language for Defense.

evolved over the last decade and the number of contractors and the scope of their work overwhelmed the government's capacity to manage them effectively.

The use of contractors in the United States' earlier contingencies did not overtax agencies' capacity to support, manage, and oversee them because the contingencies' scope or duration were comparatively smaller or shorter than the ongoing operations in Iraq and Afghanistan.[2] However, in every year of the past 23 years, the United States has been engaged in an overseas-contingency operation. For the past 12 years, the United States has always and simultaneously been engaged *in two or more* overseas regions.

The United States has engaged in 56 "ventures abroad" for other than normal peacetime purposes since 1962, and Figure 1 illustrates that the United States has conducted 10 land-based deployments lasting a year or more during this time period.[3]

Figure 1. U.S. Forces Abroad, 1962 through 2011



Source: Commission analysis of CRS Report R41677, "Instances of Use of United States Armed Forces Abroad, 1798-2010," March 10, 2011.

2. The scope and duration of previous contingencies are outlined in CRS Report R41677, "Instances of Use of United States Armed Forces Abroad, 1798-2010," March 10, 2011.

3. Ibid., 1. Note: Ventures abroad include those "instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests."

Preparing to manage contractors for overseas-contingency operations neither signals U.S. intent nor creates a momentum to launch a military operation. The geopolitical environment of recent years and in the foreseeable future provides ample reason to plan for the possibility that the United States may again become involved in overseas-contingency operations that require extensive contractor support.

The unexpected and swift development of a campaign executed by the United States and NATO to suppress the Libyan government's attacks on its citizens is a recent case in point. Unrest in Somalia and Yemen also raises the potential of a contingency operation that might require contractor support and stabilization-and-reconstruction operations.

Preparing to manage contractors for overseas-contingency operations neither signals U.S. intent nor creates a momentum to launch a military operation.

The logical implication of this geo-political environment is that contractors will remain a significant element of the U.S. government's total force. The Under Secretary of Defense for Acquisition, Technology, and Logistics recently testified before the Commission, saying, "We're simply not going to go to war without contractors."[4]

This chapter describes the extent of agencies' reliance on contractors for support in Iraq and Afghanistan; the characteristics of contingency contracting over the past ten years; and the serious political, operational, and fiscal risks of reliance on contractors during contingency operations.

The extent of reliance on contractors in contingencies

Indicators of over-reliance on contingency contractors

The number of contractor employees supporting Defense, State, and USAID operations in Iraq and Afghanistan exceeded 260,000 in 2010—a number larger than the U.S. military and federal-civilian workforce in theater. More than 80 percent of the contractor employees were local or third-country nationals, not U.S. citizens.

4. Dr. Ashton B. Carter, Under Secretary of Defense for Acquisition, Technology, and Logistics, Commission hearing, March 28, 2011, transcript, 39. Note: A list of all Commission hearings, arranged by date, appears in Appendix D of this report. Statements, transcripts, and other hearing materials will remain publicly available on the Commission website, www.wartimecontracting.gov.

The tasks that agencies have relied on contingency contractors to perform, coupled with their ineffective management of many contractors in Iraq and Afghanistan, have bred an unhealthy over-reliance that is too risky and costly to repeat.

Contractors are performing functions that law or regulation require government employees to perform. The large number of contractors erodes federal agencies' ability to self-perform core capabilities, and their presence at times has created unacceptable risks to mission or other key U.S. objectives.

The Commission's hearings, research, and discussions with officials at all levels of the acquisition community confirm that Defense and civilian agencies do not effectively assess the legality or the risks of contracting for functions.

Agency officials' decisions to heavily rely on contractors for professional and technical expertise has shifted the balance of knowledge to the extent that the government has lost much of its mission-essential organic capability, making it increasingly more difficult to oversee technical performance.

Furthermore, the agencies have demonstrated their inability to manage large numbers of contractors effectively. Only if government officials properly manage and incentivize performance would the reliance on contractors be a rational approach for obtaining quality contingency-support services at a reasonable price.

The decision to award contracts should not merely be based on what the law allows or what is cheapest.

The decision to award contracts should not merely be based on what the law allows or what is cheapest. Instead, the decision should be based on a strategic understanding of the functions being performed, a determination of the appropriateness of the use of contractors, and in the case when contractors are appropriate, the agency must have the ability to ensure effective management and oversight of contract performance. This issue is more fully discussed in Chapter 2.

What is 'over-reliance'?

In concluding that the United States is "over-reliant on contractors," the Commission is not simply looking at metrics like the contractor-to-military ratio.

Indicators of over-reliance include contracting that:

1. Extends to functions that law or regulation require government personnel perform,
2. Creates unreasonable risks to mission objectives or other key U.S. interests,
3. Erodes federal agencies' ability to self-perform core capabilities, or
4. Overwhelms the government's ability to effectively manage and oversee contractors.

Contractors outnumber service members and federal civilians

Table 1 shows that Defense, State, and USAID have awarded contracts to firms that have employed in excess of 260,000 persons in Iraq and Afghanistan. Contractor workers comprise U.S. nationals, local nationals, and third-country nationals.

Table 1. Defense, State, and USAID contractor personnel
in Iraq and Afghanistan as of March 31, 2010

	Defense	State	USAID	Total
U.S. nationals	40,800	4,322	805	45,927
Local nationals	95,692	10,194	32,621	138,507
Third-country nationals	71,061	4,734	1,193	76,988
Unknown	---	60	1,149	1,209
Total	**207,553**	**19,310**	**35,768**	**262,631**

Source: GAO Report 11-1, "Iraq and Afghanistan: Defense, State, and USAID Face Continued Challenges in Tracking Contracts, Assistance Instruments, and Associated Personnel," October 2010, 44-45.

Defense dominates contracting in Iraq and Afghanistan and manages nearly 80 percent of the contractor workforce there. Comparisons over time of the number of contractors working under Defense contracts with the number of service members show that the contractor footprint in Iraq and Afghanistan generally has corresponded to the number of deployed service members they support, in roughly a 1-to-1 ratio.[5]

On the other hand, the number of contractor employees compared to the number of State and USAID federal civilian employees working in Iraq and Afghanistan has varied with the extent and scope of the diplomatic and development missions being performed. The number of contractors and grantee employees supporting State and USAID in Iraq and Afghanistan greatly exceeds the agencies' employees—18 to 1 for State, and 100 to 1 for USAID.[6]

5. See Appendix E, Figures E-1 and E-5.

6. State and USAID federal-employee footprint data collected from State on June 23, 2011. State contractor footprint data is current as of the end of FY 2010. State and USAID enter their contractor headcount into the Defense database, Synchronized Predeployment and Operational Tracker (SPOT). Updates can be obtained through inquiries to the SPOT program manager.

The ratios for State and USAID employees and their contractors/grantees reflect both the extent of the agencies' reliance on contractors and the absence of their organic capacity to perform in a contingency environment. The difference in ratios between Defense and the two civilian agencies in part reflects contractors' roles: primarily support for Defense, and mission execution for State and USAID. The higher ratios at State and USAID, however, raise questions about whether these agencies have the capacity to effectively oversee and manage this enormous component of their workforce in theater.

The number of contractors and grantees supporting State and USAID in Iraq and Afghanistan greatly exceeds the agencies' employees—18 to 1 for State, and 100 to 1 for USAID.

Based on developments in Iraq, a potential contractor surge in Afghanistan is looming after the military withdraws. Given the upcoming transition to a diplomatic mission in Iraq and the absence of an agreement on the level of U.S. contractor presence, the military withdrawal contributed to an increase in the ratio of contractors to the service members they support.[7] Though the Status of Forces Agreement between the United States and Iraq mandates a specific military drawdown from Iraq, there is no similar stipulation for withdrawing U.S. contractors.

Contingency-contracting characteristics

Contingency-contracting characteristics are significantly different from routine peacetime contracting:

- Contracts are managed under a variety of acquisition procedures by multiple organizations from multiple locations: in the overseas area of operations, in a nearby foreign country, and in the United States.
- An already strained acquisition workforce is further burdened by the need to deploy overseas.
- Most contracts are for services supporting the U.S. forces and civilians or actually carrying out direct-mission objectives.
- The contingency-contractor workforce comprises U.S.-based companies, host-nation, and third-country firms.
- Most contract dollars are awarded to just a few large U.S. companies.
- Much of the work is performed through multiple tiers of subcontractors, resulting in a large host- and third-country workforce.

7. See Appendix E, Figure E-1.

- Socio-economic procurement policies such as Iraqi First and Afghan First give priority to helping develop local economies and countering the insurgency.[8]
- Perhaps the most important characteristic of contingency contracting in Iraq and Afghanistan is the sheer volume of contract dollars that will have been injected into those underdeveloped economies because of the United States' presence.

Value of contingency contracts and grants

The value of contingency contracts and grants is another relevant measure of the extent of agencies' reliance on contractors in Iraq and Afghanistan. As depicted in Table 2, the U.S. has spent more than $192 billion on contracts and grants through the first two quarters of fiscal year (FY) 2011.

Table 2. Total obligations on contracts and grants, FY 2002 through mid-FY 2011
Performed in support of operations in Iraq and Afghanistan (in billions)

	Defense	State	USAID	Total
Contracts	$166.6	$12.2	$8.4	$187.2
Grants		0.4	4.9	5.3
Total	**$166.6**	**$12.6**	**$13.3**	**$192.5**

Source: Commission calculations from: Federal Procurement Data System - Next Generation (FPDS-NG) and USASpending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

The Commission estimates that by the end of FY 2011, an additional $14 billion will be obligated under contracts, bringing the estimated total for FY 2002 through FY 2011 to $206 billion. Actual expenditures will be even higher because not all contracts that support contingency operations in Iraq and Afghanistan are identifiable as such.

8. The National Defense Authorization Act for FY 2008, sec. 886, authorized the Secretary of Defense to establish preference for the acquisition of products and services from Iraqi and Afghan companies.

Service contracts

Two-thirds of the money spent to date for contingency contract support in Iraq and Afghanistan was for services.[9] Agencies obligated the most dollars for logistics support services ($46.5 billion).

The 10 most commonly acquired services are depicted in Table 3 below. They account for 44 percent of total services obligations.[10]

Two-thirds of the money spent to date for contingency contract support in Iraq and Afghanistan was for services.

Table 3. Top 10 services acquired through contingency contracts
Performed in support of operations in Iraq and Afghanistan, FY 2002 through mid-FY 2011

Service description	**Total** (in billions)
Logistics support services	$46.5
Construction of miscellaneous buildings	10.5
Technical assistance	5.5
Other professional services	5.2
Guard services	3.8
Maintenance and repair, alterations of office buildings	3.5
Construction of office buildings	2.9
Lease-rent or restoration of real property	2.8
Facilities operations support services	2.5
Program management/support services	2.4
Total obligations for top 10 services	**$85.6**
Top 10 as percentage of total services obligations	44 %

Source: FPDS-NG and USASpending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

9. Commission calculation from: FPDS-NG and USAspending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011.

10. See Appendix E, Table E-5 for a more comprehensive list of most-often procured products and services.

Concentration of contingency contracting

Contingency-contract spending in Iraq and Afghanistan is highly concentrated. Awards to the largest four individual companies account for more than 40 percent of total obligations.

A total of 22 individually identifiable contractors received at least a billion dollars each and account for 52 percent of contract awards. The second-highest obligations category, however, is "miscellaneous foreign contractors." The $38.5 billion recorded for "miscellaneous foreign contractors" suggests the difficulty of compiling reliable, accurate procurement-transaction data.

Moving military equipment through the mountains, northern Afghanistan. (U.S. Army photo)

Table 4 displays the awards to the top contractors as measured by the value of the awards they have received.

Table 4. Top contingency contractors
Performing in support of operations in Iraq and Afghanistan, FY 2002 through mid-FY 2011

	Vendor	Obligations (in billions)
1	KBR	$40.8
2	*"Miscellaneous foreign contractors"*	38.5
3	Agility	9.0
4	DynCorp	7.4
5	Kuwait Petroleum Corporation	5.0
6	Fluor Intercontinental, Inc.	5.0
7	The Bahrain Petroleum Company	5.0
8	Combat Support Associates	3.6
9	ITT Federal Services International	3.4
10	The Louis Berger Group, Inc.	2.3
11	International Oil Trading Company	2.1
12	Readiness Management Support	2.0
13	L-3 Communications	1.7
14	Red Star Enterprises, Ltd.	1.7
15	IAP Worldwide Services	1.5
16	Environmental Chemical Corporation	1.5
17	Perini Corporation	1.5
18	Blackwater Lodge and Training Center	1.4
19	Contrack International, Inc.	1.4
20	Triple Canopy, Inc.	1.2
21	DAI/Nathan Group, LLC	1.1
22	Washington Group, International	1.1
23	Bearing Point, LLC	1.0
	Total obligations	**$139.2**
	22-firm % of total $192.5B spend, excluding "miscellaneous foreign contractors"	52 %

Source: FPDS-NG and USASpending.gov, last updated on June 12, 2011, for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

The data in Table 4 illustrate one of the serious aspects of contractor over-reliance—52 percent of the total dollars obligated on contract transactions performed in support of Iraq and Afghanistan went to only 22 individually identifiable contractors. Without proper oversight, this heavy reliance on

contractors has placed the U.S. government in the very risky and costly position for many contingency-support functions. The relatively small number of contractors performing such a large percentage of the contingency-support mission also presents potentially serious implications regarding effective competition and support for the U.S. government mission.

Table 5 illustrates that for certain products or services, the concentration of awards is dramatic.

Table 5. Contingency contractor concentration

Performing in support of operations in Iraq and Afghanistan, FY 2002 through mid-FY 2011

	Product or service description	FY 2002 to mid-FY 2011 obligations (in $ billions)	Low concentration	Moderate concentration	High concentration
1	Logistics support services	$46.5			X
2	Miscellaneous items	25.7	N/A	N/A	N/A
3	Liquid propellants-petroleum base	16.7		X	
4	Construction of miscellaneous buildings	10.4		X	
5	Dairy, foods, and eggs	6.6			X
6	Technical assistance	5.5		X	
7	Other professional Services	5.2		X	
8	Guard services	3.8		X	
9	Maintenance, repair, and alteration of office buildings	3.5		X	
10	Construction of office buildings	3.0		X	
11	Lease-rent of restoration	2.8			X
12	Fuel oils	2.7			X
13	Facilities operations and support services	2.5			X
14	Program management and support services	2.4		X	
15	Maintenance and repair of vehicles, trailers, and cycles	2.4			X

Source: FPDS-NG FY 2002 through end of second quarter FY 2011. Data extracted June 12, 2011.

Note: Based on obligations to the top four companies. "Low Concentration" indicates top four firms account for less than 20 percent of obligations. "Moderate Concentration" means top four firms have 20 to 80 percent. "High Concentration" means top four firms have more than 80 percent.

For six of the most commonly acquired products and services, no more than four contractors accounted for over 80 percent of the awards. For logistics support services, a single contractor accounted for nearly 80 percent of the contract dollars.

Another individual contractor accounted for 67 percent of the funds obligated for the maintenance and repair of vehicles.

The second largest category is for "miscellaneous items," once again suggesting the difficulty of compiling reliable, accurate procurement-transaction data.

The number of Defense acquisition professionals declined by 10 percent during a decade that saw contractual obligations triple.

Acquisition workforce

The federal acquisition workforce includes all officials who play a role in the contingency-contracting mission and who must now oversee a large number of complex service contracts. The growing complexity and volume of the workload has outpaced agencies' capacity to manage it. One critical indicator appears in the Department of Defense's 2010 Quadrennial Defense Review, which reported that the number of Defense acquisition professionals had declined by 10 percent during a decade that saw contractual obligations triple.

While Defense has a dedicated acquisition workforce and a mature process for acquiring and managing commodities and major weapons systems, there has been no comparable government-wide focus on the acquisition of contingency-support services. Service contracting has inadequate training programs, and the few program-oversight and management processes that are in place have proven ineffective.

The significant increases in procurement budgets since contingency operations began in Iraq and Afghanistan did not effectively translate into a heightened emphasis on planning, awarding, and managing the additional billions in contingency contracts and grants.[11]

Provincial Reconstruction Team members with Afghan contractors at hospital expansion site. (U.S. Air Force photo)

11. Commission calculation from: FPDS-NG and USAspending.gov, last updated on June 12, 2011 for FY 2002 through the end of the second quarter of FY 2011. Includes contracts performed in Iraq, Afghanistan, Bahrain, Kuwait, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Includes grants performed in Iraq and Afghanistan only.

Risks of using contingency-support contractors

There are several reasons agencies rely on contractors for contingency-support services:

- statutory and budgetary limits on the number of military service members and federal employees;
- military services' having concentrated limited resources on combat functions, which led to a degradation of organic capability;
- long lead times for employee recruitment and development;
- voluntary deployment conditions for most federal civilian personnel; and
- assumptions of cost-effectiveness for using contractors.

The size of military services and the federal government workforce have long been a point of political debate. Given the constant imperative to accomplish more with a depleted federal workforce, the result has been a gradual increased reliance on contractors. As new and expanded missions were added with time-critical needs, contracting for contingency-support services became the default option. Awarding contracts to provide services also made the federal workforce appear smaller, producing what is known as the "shadow workforce."

As new and expanded missions were added with time-critical needs, contracting for contingency-support services became the default option.

In a contingency environment, reliance on contractor support may introduce operational, political, and financial risks not present in peacetime.

The underlying truth is that the total cost of using contractors includes more than just the price of the contract. Depending on an outside source creates unavoidable risks. The risk factors include:

- operational risk to achieving the defense or development mission,
- political risk to achieving U.S. goals and foreign-relations objectives, and
- financial risk of dollars lost to contract fraud and waste.

The level of risk will depend on many factors, including the culture and characteristics of the host country, the location of battles, the phase of the contingency, the type of activity, and the quality of government oversight.

Fiscal concerns also complicate the success of ongoing and future contingency contracting.

Operational risks

The extensive use of contractors frees the military to use service members primarily for warfighting. However, relying on contractors for so much professional and technical expertise eventually leads to the government's losing much of its mission-essential organic capability.

Relying on contractors for so much professional and technical expertise eventually leads to the government's losing much of its mission-essential organic capability.

Short-term and inconsistent rotation periods across the different military services and civilian agencies contribute their own set of problems for continuity of contract management and oversight. During a contract-performance period, oversight and management may have been passed between multiple contracting officers and contracting officer representatives without a thorough transfer of knowledge. Because of the military and civilian agencies' frequent rotations, contractors often become the keepers of historical knowledge. Thus, government officials in some cases gradually cede de facto control over defense, diplomatic, and development activities to them.

Local contractors at school construction site near Mahmudiyah, Iraq. (U.S. Army photo)

This heavy reliance on contractors requires a fully capable and fully deployable acquisition infrastructure and workforce. In addition, non-acquisition officials who possess the necessary subject-matter expertise to perform requirement analysis, program management, and contractor oversight are especially needed.

Political risks

Particularly important is the impact on U.S. objectives resulting from the government's extensive use of contractors. Using local contractors not only supports the local economy, but often helps the United States develop a good rapport with the host-nation government and communities.

However, rapidly pouring large amounts of money into Afghanistan's local economy, which has limited absorptive capacity, has contributed to inflation, distorted normal economic activity, and encouraged fraud and corruption. Also, once the United States leaves, the economy will be disrupted because many of the local nationals

who are employed by the U.S. government and U.S. contractors may once again become unemployed or under-employed. The risk is that the United States withdrawal will undermine its objectives by leaving local laborers vulnerable to recruitment by the Taliban or other insurgent groups.[12]

Serious public-opinion backlash in the local communities and governments can also occur after contractors are accused of crimes. Public opinion can be further inflamed because jurisdiction over contractors is ambiguous, legal accountability is uncertain, and a clear command-and-control structure is absent. A prime example of this risk becoming reality occurred in 2007 with the killing of 17 Iraqi civilians in Baghdad's Nisur Square by employees of the company then known as Blackwater. The armed security guards were under contract by State. Perceptions of improper or illegal behavior by contractors who suffer few or no consequences generate intense enmity and damage U.S. credibility.[13]

The extensive use of contractors obscures the full human cost of war. The full cost includes all casualties, and to neglect contractor deaths hides the political risks of conducting overseas contingency operations. In particular, significant contractor deaths and injuries have largely remained uncounted and unpublicized by the U.S. government and the media.

Preparing an injured contractor for transport from a coalition hospital in Herat, Afghanistan. (U.S. Air Force photo)

12. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign assistance to Afghanistan," June 8, 2011.

13. National Bureau of Economic Research Working Paper Series, Working Paper 16152, "The Effect of Civilian Casualties in Afghanistan and Iraq," July 2010, 1-5.

Table 6 below displays U.S. military fatalities and those reported by foreign and domestic contractors supporting the United States in Iraq and Afghanistan.

Table 6. Military and contractor fatalities
Iraq and Afghanistan

	Iraq Mar 2003–Jul 2011	Afghanistan Oct 2001–Jul 2011
U.S. military fatalities	4,464	1,667
Contractor fatalities	1,542	887

Source: Military casualties reported by the Department of Defense Statistical Information and Analysis Division, Defense Manpower Data Center, as of July 25, 2011. Contractor fatalities reported on the Department of Labor (DoL) website, Division of Longshore and Harbor Workers' Compensation, Defense Base Act Summary, as of June 30, 2011. Many foreign contractor employee deaths are believed not to have been officially reported by the firms that employed them. No definitive accounting for federal civilian-employee deaths in Iraq and Afghanistan has been located.

The recent withdrawal of combat units from Iraq and the surge in Afghanistan have resulted in increased contractor casualties. Between June 2009 and March 2011, contractor deaths, including local- and third-country nationals, exceeded the military's in both countries.[14] Moreover, contractor deaths are undoubtedly higher than the reported total because federal statistics are based on filed insurance claims, and many foreign contractors' employees may be unaware of their insurance rights and therefore unlikely to file for compensation.

Between June 2009 and March 2011, contractor deaths in both Iraq and Afghanistan exceeded military deaths.

Financial risks

There are significant negative financial effects of the U.S. government's current reliance on contractors in the Iraq and Afghanistan contingencies. Extensive contingency-contract waste, fraud, and abuse are the most obvious. While using contractors for support services can lead to lower costs, agencies could save even more if they were to increase the use of competitive procedures and improve their contract management. [15]

14. Department of Labor, Division of Longshore and Harbor Workers' Compensation, "Defense Base Act Summary," June 23, 2011. Note: On its website, the Department of Labor disclaims accuracy of these numbers, saying, "These reports do not constitute the complete or official casualty statistics of civilian contractor injuries and deaths. They are offered as general information to the public who may be interested in the scope of civilian government contracting overseas."

15. Appendix F discusses cost comparisons between contractor and government task performance.

Most important, the extent of contracts being performed without adequate oversight and contract management has resulted in unacceptable vulnerability to contract waste and fraud. The Commission estimates that contract waste and fraud ranged from $31 billion to $60 billion during military operations in Iraq and Afghanistan—at the mid-range of the estimate, this amounts to $12 million every day for the past 10 years.

The Commission estimates that contract waste and fraud ranged from $31 billion to $60 billion during military operations in Iraq and Afghanistan.

Some degree of waste and fraud has always accompanied the uncertainties of war. But much of the waste and fraud in Iraq and Afghanistan that resulted from ineffective contingency contracting was foreseeable and avoidable.

The Commission predicts that many programs, projects, and contracts that are simply not sustainable by the governments of Iraq and Afghanistan will reveal even more waste in the months and years ahead. Another significant cost of overseas-contingency contracting is diversion—payments commonly made for safe passage of U.S. convoys and for protection of U.S. personnel performing reconstruction projects. Contingency-contract waste and fraud are bad enough; worse yet is that some of the wasted dollars are diverted to warlords and insurgents in Afghanistan.

Fiscal concerns

For the past 10 years, overseas contingency-operations funding has been designated as "emergency spending," and funded through supplemental appropriations. They have been excluded from the regular budgetary process. This approach can distort the apparent size of the federal budget submission by segregating substantial proposed expenditures as subsequent supplemental submissions.

Seemingly unlimited funding for contingencies through supplemental appropriations allows agencies to avoid a prioritization of their program requirements in support of the war effort. The supplemental budget also obscures the full cost of contracting and creates the illusion that contractors in the war zone are a free resource.

The ongoing debate about the federal budget and the deficit is likely to translate into reductions in the size of the military and federal-civilian workforce, but not a corresponding reduction in national-security missions. This "do the same with less"

outcome—or an even riskier "do more with less" outcome—may drive an even heavier over-reliance on contractors than has been seen in the past decade.

Faced with a mandate to reduce staffing, the bureaucratic instinct is usually to put acquisition staff on the chopping block first. Unfortunately, these are the same professionals the agencies would need to plan, manage, and oversee the additional contracts that would be signed to compensate for a reduced federal workforce and keep up with unrelenting mission pressure. Likely result: a dangerous spiral of growing over-reliance on contractors and shrinking management capability.

Because the U.S. government relies on only a handful of contractors to provide most of the support for the contingencies in Iraq and Afghanistan, this reliance potentially presents a situation analogous to the U.S. financial industry's "too big to fail" calamity.

This "do the same with less" outcome—or an even riskier "do more with less" outcome—may drive an even heavier over-reliance on contractors than has been seen in the past decade.

Another concern could arise from a tension between private and public interest. A company's main motivation—indeed, its fiduciary duty—is to produce earnings to compensate its owners for the use of and risks to their capital. This is not a judgmental statement, simply a factual observation.

In a competitive market that limits a single firm's ability to raise prices, an obvious way to increase or maximize earnings is to cut costs. Cost reduction might take the form of efficiency improvements that do not degrade quality, or might even improve it—but could also take the form of lower-quality materials, reduced training, or lower performance standards that *do* affect quality. It should be noted that a firm operating under a cost-plus government contract may face a different incentive structure.

While a company's self-interest in winning and retaining government contracts could prompt it to focus on efficiency, short-term pressures or a profit-maximization drive may lead it to cut corners. By contrast, the public's interest is in maximizing the quality of every good or service being provided under contract. This inescapable tension between private and public motivation requires that government contract managers carefully monitor and scrupulously evaluate a company's performance. That is a difficult task in the best of circumstances, and an extraordinarily difficult one in a wartime setting.

Lessons from 10 years of contingency contracting in Iraq and Afghanistan have led to many legislative, regulatory, and policy changes designed to improve processes and outcomes. However, better outcomes from these incremental improvements have in some cases not yet materialized, and in other cases have not been fully realized.

The costs are too great and the risks are too high—both to the outcomes of current operations and to future contingencies—for the U.S. government not to commit resources to improving the contingency-contract function. Because many of the high-risk issues in contingency contracting mirror those that have also proven problematic in the overall federal acquisition system, implementing real improvement to the contingency-contracting process could enhance the entire federal acquisition system.

Implementing real improvement to the contingency-contracting process could enhance the entire federal acquisition system.

Contingency-contracting improvements are in danger of atrophy once operations in Iraq and Afghanistan recede and the current leaders who champion these improvement initiatives shift their attention elsewhere or are replaced. Yet the federal government's current fiscal constraints provide a challenge for ensuring continued leadership emphasis and for commitment of the resources necessary for enduring improvements to the contingency-contracting mission.

The government's options could include a selection or combination of:

- increasing the size of the federal workforce;
- decreasing the use of contractors; and
- reconsidering the number, nature, and scope of the overseas contingency operations.

Outline of report content

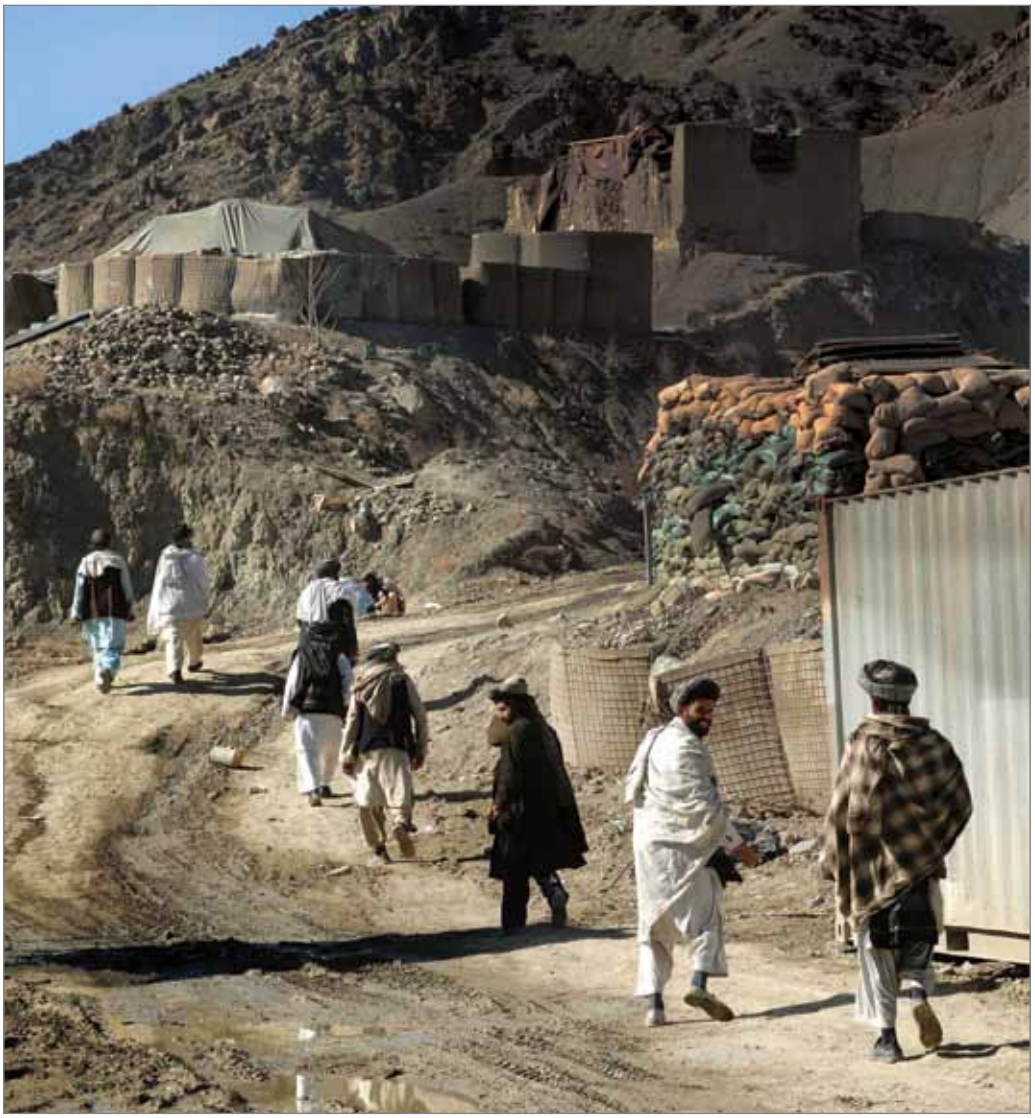
The next chapter in this report provides Congress and the contingency-stakeholder community with the Commission's recommendations for determining the appropriate use of contractors, including private security contractors. Chapter 3 provides numerous examples of waste, fraud, and abuse, and connects them to the problems of agency-oversight and poor contractor performance.

Because so much of contingency-contract waste has yet to be realized, Chapter 4 warns of project-sustainability issues and provides recommendations for mitigation.

A major factor in avoiding waste from unsustainable projects in a contingency environment is the elevation of the contingency-contracting function and interagency coordination. Chapters 5 and 6 provide recommendations for agencies to implement a strategic, whole-of-government approach to contingency contracting.

Chapter 7 provides recommendations for improving accountability for contracting outcomes by strengthening contingency-contract competition, performance management, and enforcement. Finally, Chapter 8 provides recommendations to advance Congress' objectives for contingency-contracting reform after the Commission's sunset at the end of the 2011 fiscal year.

Afghans at U.S. project site. (Defense photo)



Afghan road workers at weapons training, FOB Kutschbach. (U.S. Air Force photo)

Chapter 2

‘Inherently governmental’ rules do not guide appropriate use of contractors in contingencies

'Inherently governmental' rules do not guide appropriate use of contractors in contingencies

Ten years of war in Iraq and Afghanistan have seen the United States using too many contractors for too many functions with too little forethought and control. Even if every instance of contracting had satisfied the legal restrictions on contractor performance of "inherently governmental functions"—a dubious proposition at best—the Commission believes far too little attention has been devoted to the question whether all of that contracting was *appropriate* for contingency operations.

Government actions in the 1990s led to reductions in U.S. military force structure and civilian agency strength. Given a reduced force structure and a desire to maintain levels of combat personnel, the military reduced its organic support personnel, which increased the need for contractor support.

Acquisition decisions that are expedient in the short term can increase costs and constrain government's options in the long term.

In addition, there was a general decline in federal agencies' acquisition staff and agencies' ability to perform many functions related to their core missions, even as the volume and complexity of acquisitions were increasing. These trends often left government officials with no alternative but to enlist contractor support when a contingency developed. For

Afghan and U.S. soldiers on patrol, Pad Khwab-E Rowan, Afghanistan. (U.S. Army photo)

many purposes, then, contracting became the default option for Defense, State, and USAID, because it was the only realistic option.

Nonetheless, planning, sourcing, and requirements definition must be carried out with more attention to appropriateness and risk, including risk mitigation, than has been evidenced in the Afghanistan and Iraq contingencies. Acquisition decisions that are expedient in the short term can increase costs and constrain government's options in the long term. Unless contingency-contracting reforms are implemented, future contingencies will continue to exhibit inappropriate levels of reliance on contractors.

All too often, officials assume that any task deemed not inherently governmental is therefore automatically suitable for performance by contractors.

The inherently governmental standard is insufficient, offering little or no useful guidance for deciding whether contracting for non-governmental functions is *appropriate* or prudent in contingency operations. After determining whether the inherently governmental prohibition applies, decisions to contract still need a context- and risk-sensitive consideration of appropriateness for contingency operations.

Events in Iraq and Afghanistan have shown that systematic consideration of operational, political, and financial risks must be a factor in judging appropriateness. All too often, officials assume that any task deemed not inherently governmental is therefore automatically suitable for performance by contractors.

The concept of financial risk requires a word about costs. The Commission has done research on the comparative financial costs of using contractors. Appendix F of this report lays out a method for identifying and comparing the incremental costs of military forces, federal civilians, and contractor personnel. It describes how factors such as the contingency duration, rotation policies, and local labor market affect comparisons.

Our research indicates that, under certain, limited circumstances, contractors can be a less costly option for extended contingencies. The dominant factor driving these reduced costs is lower labor rates paid to local-national and third-country national contractor employees.

So to the question "Are contractors cheaper?," the short answer is: it depends. And because it depends upon a whole range of factors, many of them not under

direct government control, considerations of cost cannot be the driving factor in determining whether to contract or what to contract.

Moreover, national security is not a business decision. The Commission firmly believes that in matters of national security and foreign policy involving sustained combat and arduous diplomatic action overseas, considerations of cost are and must be a far less important consideration than mission accomplishment.

Contracting that is not restricted by the inherently governmental prohibition may still be inappropriate.

Also, and to be absolutely clear: "cost" must not be confused with "waste." Our view that cost should not be a decisive factor in wartime contracts is absolutely no justification for tolerating waste.

The Commission looked at costs, and acknowledges that contractors can be cheaper in long wars. Nonetheless, however costly or cheap they may be, there are still many circumstances where contractors are too risky, where contractors actually induce new risks, and where contractors are not appropriate.

In the area of operational and political risks, the Commission's findings pay special attention to contracting for security and acquisition-management functions.

Much public and political attention has been drawn to private security contractors and to the sensitivity of engaging their services:

- Iraqi insurgents' murder and brutalization of four Blackwater guards in 2004,
- private guards' shooting of Iraqi civilians in Baghdad's Nisur Square in 2007,
- the billions of dollars spent on private security contracts, and
- reports of weak oversight of subcontracting for local-national or third-country national security guards.

Acquisition management also deserves special attention because the U.S. cannot conduct contingency operations without contractor support. Agencies generally consider this function of secondary importance, as opposed to a core capability. Furthermore, agencies involve contractors in the acquisition management process without paying due regard to the risk of indirect damage. Those risks include the relationships and working knowledge a contractor develops while supporting acquisition management that may subtly bias a contracting official's decisions,

or confer a windfall competitive advantage on the contractor for future solicitations.

The treatment of inherently governmental functions in federal statute, regulations, and policy is intended to be a critical barrier to ensure that only government personnel perform certain functions, such as waging war, conducting diplomacy, or making commitments that bind the government. The Commission believes, however, that:

- Contracting that is not restricted by the inherently governmental prohibition may still be inappropriate.
- Contracting that may be appropriate in routine, *peacetime* circumstances can be inappropriate in the urgent, volatile setting of a contingency operation.
- Contracting that in the long term may be significantly less expensive than other options (such as retaining the function in-house) may still be inappropriate in a wartime setting.

Ugandan security contractor, Mosul, Iraq.
(U.S. Navy photo)

Current federal guidance on inherently governmental functions is not sufficient

The concept of inherently governmental functions appears in a number of sources, including the Federal Activities Inventory Reform Act of 1998 (the FAIR Act), the Office of Management and Budget's Circular A-76, and the Federal Acquisition Regulation (FAR).[1] A number of functions, while not considered to be inherently governmental and which thus may be performed by contractors, are denominated as "closely associated" with inherently governmental functions, and may only be contracted after giving special consideration to using federal employees.[2] Not addressed are "critical functions" and the need to maintain a sufficient number of federal employees to perform them so that the government keeps control over agencies' core missions and operations.

The published guidance reflects much thought and effort. Unfortunately, the overall result is muddled and unclear. It is riddled with exceptions, ambiguities, and ad hoc legislated interventions. The Commission does not consider it a sound

1. The FAIR Act, 31 U.S.C. 501 (note); OMB Circular A-76, revised May 29, 2003. The FAR is the core federal regulation for use by all federal executive agencies acquiring supplies and services with appropriated funds.

2. Sec. 736 of Division D of the Omnibus Appropriations Act, 2009, P.L. 111-8; 10 U.S.C. 2463; 10 U.S.C. 2330a; FAR 7-503(d).

platform from which to make risk-based or other decisions, beyond those driven by statutory or policy mandates, on what functions are appropriate to contract.[3]

Several laws prohibit certain functions from being contracted, notwithstanding their relationship to inherently governmental rules. These laws include:

- 5 U.S.C. 306–Prohibits contracting for services to draft strategic plans.
- 10 U.S.C. 2464–Requires Defense to maintain a core logistics capability to maintain and repair weapon systems and other military equipment by assigning government personnel and government-owned facilities "sufficient workload to ensure cost efficiency and technical competence in peacetime while preserving the surge capacity and reconstitution capabilities" defined by the secretary.
- 10 U.S.C. 2465–Prohibits, with certain exceptions, contracting for firefighting and security guards at domestic military installations.
- 31 U.S.C. 1115–Prohibits contracting for services to draft agency performance plans.

Agencies violate inherently governmental standards. The law requires Defense as well as civilian agencies to survey and report on their services contracting.[4] A 2009 Army base-budget survey of services contracts found some 2,000 contractor positions, expressed in full-time equivalents, performing inherently governmental functions.[5] If this is occurring in *base*-budget activities, a reasonable assumption is that it also occurs in supplemental-funded activities supporting contingency operations, perhaps to a greater extent.

Determining that a task is not inherently governmental does not mean that it is a good idea to have contractors perform that task in a contingency operation.

It is, of course, essential that contractors not perform functions that law, regulation, or official policy reserve for government employees. But that is a basic principle applicable to all government activity, contingent or otherwise. Determining that

3. OMB Circular A-76, revised May 29, 2003. Inherently governmental functions include waging war, binding the government to take or not take action, and exercising ultimate authority over federal property and funds.

4. Sec. 807 of the National Defense Authorization Act for FY 2008, P.L. 110-181 (for Defense agencies); sec. 743 of Division C of the Consolidated Appropriations Act, FY 2010, P.L. 111-117 (for civilian agencies).

5. The United States Army, "Army FY 2009 Inventory of Contracts for Services: Enclosure 2," undated, 1-12. The Army's and other Defense efforts to bring such activity in-house have recently been slowed by the federal budget situation. On March 14, 2011, Under Secretary of Defense Ashton Carter and Under Secretary of Defense Robert Hale issued guidance that all in-sourcing decisions would henceforth be made case by case.

a task is not inherently governmental does not mean that it is a good idea to have contractors perform that task in a contingency operation. "Permissible" is not a synonym for "appropriate." Deciding whether a function needed or contemplated for contractor performance *in a contingency* must involve more than applying a binary, yes-or-no filter like "inherently governmental." For a function to be both permitted *and* appropriate for contingency contracting, the baseline inherently governmental test must be followed by consideration of other factors, the most important of which is risk.

When officials judge that risk levels are high for a given task and that no practicable and effective risk-mitigation strategies for contractor performance are available, it is appropriate that the contract tasks be modified or canceled, or that the work be brought in-house.

Movement toward a more risk-based approach

The Office of Federal Procurement Policy (OFPP) within the Office of Management and Budget (OMB) has taken a helpful step in discussing risk factors as part of the considerations to be weighed in making decisions on contracting. The OFPP's proposed policy letter on "Work Reserved for Performance by Federal Government Employees" responds to congressional direction that tasked OMB with developing a "single consistent definition" of "inherently governmental function."[6]

Published in draft form in 2010 and still awaiting final release, the Office of Federal Procurement Policy letter embodies a single definition of inherently governmental, proposes evaluation criteria and risk-mitigation strategies to guide federal officials, and includes directives such as this guidance relating to critical functions and risk:

> Agencies should be alert for situations where internal control of missions and operations is at risk due to overreliance on contractors to perform critical functions. … If an agency has sufficient internal capability to control its mission and operations, the extent to which additional work is performed by federal employees [rather than contractors] should be based on cost considerations *unless performance and risk considerations* in favor of federal employee performance will clearly outweigh cost considerations.[7] [Emphasis added.]

The letter focuses on the inherently governmental standard, and is not designed to guide contingency-contracting decisions. But its emphasis on considering risk

6. National Defense Authorization Act for FY 2009, sec. 321, P.L. 110-417.

7. Office of Management and Budget, "Notice of proposed policy letter," Federal Register, 75:61, March 31, 2010, 16188-16197.

and other factors beyond the baseline legal construct of inherently governmental functions is a thoughtful and helpful exercise that can be extended for particular use in contingencies.

Risk as a factor in selecting appropriate contracting

For functions performed in a war zone, prudent decisions on contracting include assessing the level of *risk* associated with contracting, and judging whether that level is or can be mitigated to an acceptable level. When officials at Defense, State, USAID, or other federal agencies judge that risk levels are high for a given task and that no practicable and effective risk-mitigation strategies for contractor performance are available, it is appropriate that the contract tasks be modified or canceled, or that the work be brought in-house.

Afghan road maintenance team, Kapisa province, Afghanistan. (U.S. Air Force photo)

The U.S. government has established processes for evaluating risk that embody this approach. For example, U.S. Army Field Manual FM 5-19, "Composite Risk Management," details a risk-assessment and control approach that starts by weighing the probability of a given hazard's occurrence against its impact on the mission. It is a judgmental, iterative, and probabilistic process, not a mechanical application of rules:

> [Once hazards were identified and assessed,] an initial risk level was determined. In this step, controls are developed and applied. The hazard is reassessed to determine a residual risk. Risk decisions are always based on the residual risk. The process of developing and applying controls and reassessing risk continues until an acceptable level of risk is achieved or until all risks are reduced to a level where benefits outweigh the potential cost.[8]

This process offers a good discipline for operational commanders. However, such risk analyses have not driven broad-scale, strategic contracting decisions by Defense, State, or USAID in Iraq and Afghanistan, leaving the United States ill-prepared to use contractors for the scale and duration seen in those countries.

8. Department of the Army, Field Manual FM 5-19, "Composite Risk Management," July 2006, Chapter 1, 10.

When the U.S. government went to war, it did not have enough acquisition personnel, the capacity to manage and oversee contracts, adequate training on operational contract support for non-acquisition military personnel, or core contracting capabilities in crucial areas, including one of the highest-risk areas—security.

The Department of Defense "Instruction" (DoDI) on workforce mix also provides detailed risk-based guidance on choosing among military, civilian, and contractor personnel to perform specific functions. The 55-page instruction provides, among other things, that:

- "When reviewing the adequacy of critical contract services that support the Combatant Commanders' contingency plans during the deliberative planning process of the Joint Strategic Planning System, [the Chairman of the Joint Chiefs shall] assess the risks of using contract support consistent with this Instruction and require Combatant Commanders to develop contingency plans if they have a reasonable doubt that a contractor will continue to provide essential services during a mobilization or crisis."
- "When establishing the workforce mix, manpower planners shall review all mission requirements and design units and/or organizations to accomplish baseline operations and transition quickly and easily to support military operations (e.g., contingency, humanitarian, peacekeeping) and crises. Manpower analysts also shall use the guidance for risk assessments ... to help identify risks."
- "Risk mitigation shall take precedence over cost savings when necessary to maintain appropriate control of Government operations and missions … [or] to maintain core capabilities and readiness."
- "Functions that are [inherently governmental] cannot be legally contracted" and "Functions that are not [inherently governmental] are commercial in nature."
- "Security actions that entail assisting, reinforcing, or rescuing PSCs [private security contractors] or military units who become engaged in hostilities are [inherently governmental] because they involve taking deliberate, offensive action against a hostile force on behalf of the United States."

U.S. soldier with residents, Nassir Wa Salaam, Iraq. (Defense photo)

- "Security is [inherently governmental] if, in the commander's judgment, an offensive response to hostile acts or demonstrated hostile intentions would be required to operate in, or move resources through, a hostile area of operation."[9]

The Defense Instruction is carefully constructed, even to the point (as seen in the quoted excerpts) of noting that an otherwise commercial activity such as security may, in effect, *become* inherently governmental under particular circumstances. Nonetheless, the Instruction is not framed as a guide to contracting decisions *for contingency operations*: the word "contingency" appears only a few times in the main narrative of the Instruction, and some of those uses refer to classifications rather than criteria for contracting decisions. Further, the implication that, within a single department, a particular task may or may not be inherently governmental, depending on circumstances, suggests that some conceptual ambiguity lies nestled in the meaning ascribed to "inherent."

The language of the Instruction also serves as an illustration that different agencies within the federal government can reach starkly differing conclusions about the meaning of "inherently governmental."

Consider the treatment of quick-reaction forces—usually small light-infantry or police units tasked to respond on very short notice to emergencies. The Defense guidance quoted above says, "assisting, reinforcing, or rescuing PSCs or military

Zabul Provincial Reconstruction Team, Qalat, Afghanistan. (U.S. Air Force photo)

9. Excerpts from Department of Defense Instruction 1100.22, "Policy and Procedures for Determining Workforce Mix," April 12, 2010.

units who become engaged in hostilities" is inherently governmental because doing so involves offensive action. The State Department, on the other hand, has used and will use thousands of private contractors for both standard security and quick-reaction-force duties in Iraq as U.S. military forces withdraw because it does not view those tasks as inherently governmental.[10] USAID does not enter into this discussion: the agency has no organic security force and does not contract directly for security. Any private security for USAID-funded projects occurs as subcontracting activity by USAID's "implementing partners" who receive grants or contracts.

These disparities in definitional treatment illustrate that the rules on inherently governmental functions do not produce predictable and consistent results on the legal baseline of permissibility, much less offer guidance on what is appropriate for contracting in contingency operations.

The rules on inherently governmental functions do not produce predictable and consistent results on the legal baseline of permissibility, much less offer guidance on what is appropriate for contracting in contingency operations.

Characteristics of risk in contracting for a contingency

The observations and research of the Commission have identified a number of risk factors that should be considered as a guide in determining what is appropriate to contract for in a contingency. The following list does not purport to be definitive or exhaustive, for there is no apparent standard for judging that all risks have been identified, even conceptually. Indeed, presuming that one has identified all possible risks is itself likely to be a risky thing to do. Nonetheless, some risk factors within the broad areas of operational, political, and financial risks are apparent, including risks to:

- U.S. goals and objectives, such as from behavior that injures innocent members of the local population or outrages their sensibilities;
- federal civilians' or military personnel's safety, if contractors' presence or performance creates unsafe conditions or invites attack;
- managerial control, such as relying on contractors to monitor other contractors with no means for government to check their work;

10. See Commission Special Report 3, "Better planning for Defense-to-State transition in Iraq needed to avoid mistakes and waste," July 12, 2010. See also Patrick F. Kennedy, Under Secretary of State for Management, Commission hearing, June 6, 2011, transcript, 57: "Even in those circumstances [reference to question about a force having to shoot its way into a situation to rescue people], security is not inherent in the government."

- maintaining agencies' critical organic or core capabilities;
- critical knowledge or "institutional memory" as federal personnel rotate in and out of theater so that government must rely on long-serving contractors for area or subject-matter expertise;
- government's ability to control costs, waste, fraud, abuse, and conflicts of interest; and
- mission, such as from contractors walking off the job or being unable to perform when there is no timely back-up available.

If mitigation or control measures leave the residual risks of using contractors at a level that outweighs the expected benefits, then government needs timely and deployable options to support the contingency mission.

These and other risks can assume greater or lesser salience depending upon the circumstances in which a contractor would be operating. As an example, recruiting local nationals as private security guards in an area where local sympathies are divided entails higher risk to the safety of U.S. and allied personnel than in a neutral or friendly area. If risk mitigation, such as stricter vetting and more vigorous human-intelligence gathering, could not reduce the residual risk to an acceptable level, decision makers would then consider not using contractors, modifying their use, or canceling or postponing the mission.

Situational risk factors that could affect risk assessment include:

- operating in a combat zone or insurgent-threat area;
- lack of effective federal oversight in the area of operations;
- presence of a culture of corruption;
- a host government incapable of enforcing the rule of law;
- inadequate accounting, financial, and business systems among contractors and subcontractors; and
- lack of legal accountability for foreign prime contractors and subcontractors.

These situational factors should be considered along with the risks discussed earlier as part of the decision on what is appropriate for the government to contract for in a particular contingency. If mitigation or control measures leave the residual risks of using contractors at a level that outweighs the expected benefits, then government needs timely and deployable options to support the contingency mission.

► **RECOMMENDATION 1**

Use risk factors in deciding whether to contract in contingencies

Heads of agencies involved in a contingency should:

- issue and ensure implementation of policy guidance for using risk factors such as those listed above, as well as those described in the Office of Federal Procurement Policy draft policy letter of March 2010 and Department of Defense Instruction 1100.22, to provide guidance on what functions are *appropriate* to contract for in a contingency setting;
- provide funding and direction for agencies involved in contingency operations to identify a trained, experienced, and deployable cadre for stabilization-and-reconstruction functions in areas of contingency operations so that the government has an alternative to contracting for performance of critical or sensitive functions; and
- provide a strategic plan for deploying these cadres that includes provisions for mandatory deployability of civilian members, and is supported by a back-up capability for rapidly making temporary hires for large-scale or long-term contingency operations.

Heavy reliance on contractors can easily introduce risk into the area of acquisition management.

Contractors and risks to proper acquisition management

The government often employs contractors to help evaluate or otherwise support its management of other contractors. Doing so, however, can give rise to potential or actual organizational conflicts of interest (OCI) that must be avoided or mitigated.

The Federal Acquisition Regulation (FAR) requires contracting officers to analyze planned acquisitions to identify and evaluate potential organizational conflicts of interest as early in the acquisition process as possible, and to avoid, neutralize, or mitigate significant conflicts before contract award.[11]

Common sense, good judgment, and sound discretion are required in deciding whether a significant potential conflict exists and, if it does, in developing an appropriate means to resolve it. The two underlying principles are to avoid

11. FAR 9.504.

conflicting roles that might bias a contractor's judgment, and to prevent a contractor's acquiring an unfair competitive advantage.

The risk of organizational conflicts of interest need not be a significant problem if handled appropriately. OCI can, however, be a problem when the contracting officer is overloaded and his or her support staff are themselves predominantly contractors, as has often been the case in the Iraq and Afghanistan contingency operations.

Heavy reliance on contractors can, for example, easily introduce risk into the area of acquisition management. Several instances of potential organizational conflicts of interest were identified in Iraq and Afghanistan. In each case, mitigation was attempted. But the appearance of conflicts of interest and the potential for problems were there:

- The U.S. Army contracted with Serco, Inc. in February 2007 to act as an independent stateside contractor to plan and develop performance work statements to compete future work among three competing contractors under the Army's Logistics Civil Augmentation Program (LOGCAP), a worldwide support contract. A contract clause prohibited Serco from working in any capacity under a LOGCAP IV contract. However, a Serco subcontractor, Military Professional Resources Inc. (MPRI), was drafting statements of work for both LOGCAP and non-LOGCAP work. MPRI could have been placed in a position to favor itself when developing performance work statements for requirements that it might have performed under the LOGCAP program as a subcontractor. After an inspector general identified the problem, Serco discontinued the subcontract with MPRI.[12]

  In Afghanistan, the firm Aegis Defense Services was selected in 2009 to support the Armed Contractor Oversight Directorate (ACOD), with an Aegis contractor serving as deputy director and having day-to-day responsibility for managing the directorate. Aegis's responsibilities included working with the Afghan Ministry of Interior on investigations of PSC escalation-of-force incidents. The military's request for expedited assignment of four field-grade officers for ACOD went unfilled for months, leaving Aegis effectively in charge of making decisions on potential competitors' conduct.

  Discovering this situation during theater travel, Commissioners concluded and reported that it created a potential conflict of interest if Aegis were to begin providing security for Defense. The government notified Aegis of the potential conflict, and offered Aegis the chance to be able to compete for

12. DoD IG Report No. D-2011-032, "Logistics Civil Augmentation Program Support Contract Needs to Comply with Acquisition Rules," January 7, 2011, 1, 9-10.

future security work by withdrawing from the ACOD support contract in Afghanistan. The company withdrew, effective November 15, 2009.

- The U.S. government contracted with Virginia-based CACI International in 2004 to provide operations-support services to the Joint Contracting Command Iraq/Afghanistan (JCC I/A). Attempts to increase the JCC I/A's military staffing levels and to recruit volunteers had failed, so dozens of CACI employees were added and performed work that government contract specialists would normally have done.

  By way of organizational-conflict-of-interest risk mitigation, CACI undertook not to compete for other JCC I/A solicitations, and to "firewall" the JCC I/A-support group from other CACI operations.[13] With the government's approval, this CACI business segment continued to act as part of a larger organization that competed for other contracts in theater. The Commission has reservations, however, whether such firewall arrangements can be effective.

The use of contractors to manage other contractors reveals a failure of government to provide for a sufficient contingency workforce.

These examples illustrate how easily potential or actual organizational conflicts of interest can arise, and to suggest that the urgency of contingency operations requires a vigilant and effective risk-identification, risk-mitigation, and OCI-enforcement process. When, however, organizational conflict of interest cannot be avoided or mitigated to an acceptable level, the work must not be done by contractors.

A somewhat different example—contractor work performed in the United States in support of the Afghanistan and Iraq operations, rather than in theater—illustrates a combination of problems that were not mitigated in advance. The case involves a $285.5 million contract awarded in 2009 by Army Contracting Command to Science Applications International Corporation (SAIC) for follow-up maintenance support for the Army's Mine Resistant Ambush Protected (MRAP) vehicles. According to the inspector general of the Department of Defense, Army, and Joint Program Office officials

> inappropriately allowed the contractor to perform inherently governmental functions, such as disciplining DoD employees, and to have organizational conflicts of interest, such as helping prepare requirements for the follow-on contract that the contractor bid on and won. … This greatly increased the risk for potential waste or abuse on the contract.[14]

13. Dr. Terry Raney, Senior Vice President, CACI International, Inc., Commission hearing, April 19, 2010, transcript, 126.

14. DoD IG Report D-2011-081, "Contract Management of Joint Logistics Services in Support of Mine Resistant Ambush Protected Vehicles Needs Improvement," July 11, 2011, i.

The use of contractors to manage other contractors reveals a failure of government to provide for a sufficient contingency workforce. Personnel shortages are not sufficient justification for contracting for high-risk functions after a crisis develops. Congress and federal agencies are responsible for structuring the U.S. peacetime workforce to deal with projected mobilization and crisis demands. Securing a standing capability to deploy at the start of a contingency would reduce contract waste, fraud, and abuse, which were a significant problem in the early days of the operations in Iraq and Afghanistan, as well as help to avoid or mitigate potential organizational conflicts of interest.

Determining whether an instance of static, personal, or convoy security is appropriate for contracting out in a contingency environment depends upon factors in addition to the inherently governmental construct.

► RECOMMENDATION 2

Develop deployable cadres for acquisition management and contractor oversight

Agency heads should:

- Provide funding and direction to establish a trained, experienced, and deployable cadre for acquisition-management and contractor-oversight functions in areas of contingency operations so that the government has an alternative to relying on contractors for acquisition management and oversight.

Appropriate use of security contractors in contingencies

The government uses security contractors in three main ways:

1. *Static* security for sites like embassies and consulates, for military forward operating bases (FOBs), and for construction sites;
2. *Personal* security details for diplomats and other government personnel, and for other persons requiring special protection; and
3. *Convoy* security for movement of personnel and goods.

Direction regarding the performance of security functions in a contingency came with the enactment of the National Defense Authorization Acts for FY 2008 and 2009, as well as in the 2006 version of DoDI 1100.22, "Guidance for Determining Workforce Mix," which delegated decisions on the use of armed contractors

to the Combatant Commands (COCOMs)—years after the start of the Iraq and Afghanistan contingencies.[15]

In January 2006, Defense's general counsel issued a legal opinion concluding that the use of PSCs to protect U.S. personnel and property in Iraq and Afghanistan was appropriate. This opinion states that it would be inappropriate to use armed security contractors in "situations where the likelihood of direct participation in hostilities is high."[16]

The "likelihood" caveat in the Defense legal opinion underscores the Commission's belief that determining whether an instance of static, personal, or convoy security is *appropriate* for contracting out in a contingency environment depends upon factors in addition to the inherently governmental construct. Those factors include the type of security, risk of the specific mission, situational conditions, the current or potential kinetic environment, and host-nation stability.

Fuel trucks ablaze, Oruzgan province, Afghanistan. (Photo courtesy of DCMA)

The presence and scale of risks can be highly context-sensitive. In Afghanistan, for example, the difficulties of vetting and overseeing Afghan personnel hired for security tasks in a zone of contingency operations have been illustrated by incidents of attacks and fatalities inflicted on U.S. and other allied personnel with the participation or support of security contractor employees—and at least one episode of Afghan security guards huddling in their beds while insurgents attacked the U.S. combat outpost they were hired to guard.[17]

It should be noted that members of the Afghan military and police have also inflicted U.S. fatalities. Given that avoidable risks of operational, fiscal, and

15. Secs. 832, 853, National Defense Authorization Act for FY 2009, P.L. 110-417; sec. 862, National Defense Authorization Act for FY 2008, P.L. 110-181.

16. Department of Defense, Deputy General Counsel Charles A. Allen, memorandum, "Request to Contract for Private Security Companies in Iraq," January 10, 2006.

17. MSNBC News, "Afghan security contractor accused of killing US soldiers," March 21, 2011. The report said a recently hired guard with Tundra Security Group opened fire on a group of U.S. soldiers at Forward Operating Base Frontenac in Argandab Valley, killing two and wounding four before being shot to death. Associated Press, "Probe: Afghan Troops Ran, Hid During Deadly Attack," June 10, 2011. The story details an October 3, 2009 insurgent attack on Combat Outpost Keating in which eight U.S. soldiers were killed and 22 wounded, and includes reports on the conduct of both Afghan soldiers and Afghan security guards.

political failures fall directly on the U.S. government and its policy objectives, the Commission believes that risk assessments for using security contractors should be a standard, regularly updated exercise, and that agencies involved in contingency operations should formally agree on general principles for using security contractors.

As Iraq and Afghanistan show, the environments are dynamic and numbers of contractors and the scope of their missions can change dramatically from one year to the next. This is in contrast to labeling any one type of security as inherently governmental, assigning a "bright line" to that function, and prohibiting the U.S. government from contracting for such a service in future contingencies.

In a war zone, as troop limitations and expanded agency missions drive manpower decisions, a risk-based determination process of whether a function should or should not be contracted may take a back seat to mission accomplishment. As the Under Secretary of State for Management remarked, "The surge capability is, in my mind, what contracting is for … to be able to grow the work when you have a particular need and then to shrink that work back for the benefit of the mission and the American taxpayer."[18]

A realistic risk assessment must consider whether contracting for these services, currently performed with limited government oversight, is acceptable and whether risk can be brought to acceptable levels.

State's Bureau of Diplomatic Security has limited employee resources, yet in Iraq must significantly expand its security workforce to develop its countrywide presence as Defense continues to withdraw troops and resources. Contractors will supply much of the increased workforce.

A realistic risk assessment must consider whether contracting for these services, currently performed with limited government oversight, is acceptable and whether risk can be brought to acceptable levels. Lack of proximity to contracting and oversight authorities and to trained or experienced personnel in theater makes this a difficult challenge for State and especially for USAID, with its numerous and widely dispersed projects. The Commission has expressed concern in hearings and special reports about State's ability to manage and oversee a major expansion of its contracting activity. A similar concern applies with more force to USAID, which has an even smaller acquisition staff than State,

18. Patrick F. Kennedy, Under Secretary of State for Management, House of Representatives Committee on Oversight and Government Reform, Subcommittee on National Security, Homeland Defense, and Foreign Operations hearing, "U.S. Military Leaving Iraq: Is the State Department Ready?," March 2, 2011.

no organic security forces, and no direct contractual relationships with security contractors that its implementing partners may engage.

State and Defense have made significant progress in implementing standards and processes for the selection, training, equipping, accounting for, coordinating, monitoring, and investigating private security contractors and their activities. The Commission is concerned whether similar risk-mitigation strategies will be applied to security subcontractors for USAID implementing partners.

USAID pursues hundreds of projects in Iraq and Afghanistan for traditional reconstruction and development goals, as well as "stabilization" goals linked to political/military objectives. These efforts have entailed work dispersed among many remote locations, often in areas of lethal insurgent activity or at least constant threat of attack. USAID does not contract directly for security, and some of its implementing partners work without security. But security is an issue. As GAO has noted, "U.S. officials cited poor security as having caused delays, disruptions, and even abandonment of certain reconstruction projects."[19] USAID's inspector general told the Commission that the agency had cited security as "the overriding risk confronting USAID's ability to manage its assistance activities" as early as 2003, then elaborated as recently as 2009:

> In addition to causing operating and program costs to increase, the lack of security imposes significant constraints on USAID's ability to monitor its programs. USAID officials are unable to make routine site visits, and their official counterparts are often reluctant to be seen meeting with Americans. Normal branding procedures (e.g., ensuring that USAID's logo is readily visible at project sites and on delivered commodities) are sometimes bypassed in order to protect the implementers and the beneficiaries. USAID-funded vehicles have been damaged or destroyed by insurgents, and implementing partners and host country officials have been the targets of threats, kidnappings, and murders.[20]

Delays, abandonments, threats, and attacks all create an environment which contributes to waste. But this outcome is to be expected if U.S. policy departs from the maxim of "clear, hold, build." There may be powerful geopolitical or humanitarian reasons to launch large-scale reconstruction projects in unsecured or contested areas, but obtaining cost-effective contracting is not one of them. As the Special Inspector General for Iraq Reconstruction (SIGIR) told the Commission at its first hearing:

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19. GAO Report GAO-10-932T, "Afghanistan Development: USAID Continues to Face Challenges," July 15, 2010, 4.

20. Donald A. Gambatesa, Inspector General, USAID, statement, Commission hearing, February 2, 2009, 2.

> A successful reconstruction program requires a balancing of security, political, and economic interests. Reconstruction cannot proceed on a large scale without the requisite security to protect those responsible for implementing and overseeing projects. When embarking on a contingency relief and reconstruction operation, the U.S. government should analyze whether and at what costs those security risks can be mitigated. Projects should only proceed when senior leaders determine that the strategic objectives they seek to fulfill outweigh the risk of failure and the costs of mitigating security risks.[21]

Officials who take into account the operational and fiscal implications of providing the level and duration of security required to complete and operate a project might well decide to cancel, postpone, or modify it before the associated costs and risks outweigh the presumptive benefits.

Conditions influence appropriate use of contractors

Compared to the scope of contracting in reconstruction or logistics programs, contracted security providers are relatively small in number. However, any incident involving an armed private security contractor has immediate impact, with even minor incidents generating extensive media and host-nation attention.

Even if permitted by U.S. or host-nation laws, using contractors to provide security functions in specific contingency operations may not be the best decision based on conditions and risk. President Karzai's decree to restrict the use of PSCs may influence the decision to contract security services even if this is not expressly prohibited by the government of Afghanistan.[22] Concerns of waste, fraud, and indirect insurgent funding in convoy contracts in Afghanistan increase the risk to the mission of using PSCs. In these cases contracting for services is not appropriate unless the potential benefits outweigh the associated risks.

Risk evaluations include assessments of PSC use-of-force incidents, illegal activity, and implementation of procedures for coordinating, monitoring, reporting, and investigating contractor movements and incidents. Options available to mitigate risk are necessarily contingency-specific.

Situations vary among contingencies. A core set of mitigation steps, however, could be applied to all contingencies, including:

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21. Stuart Bowen, Jr., Special Inspector General for Iraq Reconstruction (SIGIR), statement, Commission hearing, February 2, 2009, 4.

22. President Hamid Karzai, Presidential Decree 62, "Ordinance of the President of the Islamic Republic of Afghanistan About Closing Security Companies," August 17, 2010.

- clarifying legal accountability under U.S. and host-nation laws,
- defining agency roles and responsibilities for oversight of all PSCs,
- drafting sufficient policies and procedures,
- securing appropriate funding to sustain management and oversight positions, and
- deploying trained or experienced staff in the field to monitor performance.

Additional risk mitigation can be adapted from lessons learned in previous or current contingency operations, including the establishment of interagency PSC coordination centers such as the Defense-managed Contractor Operations Cell (CONOC), clear incident-reporting guidance, and doctrine for interagency and bilateral investigations of incidents. Reforms implemented since 2007 have contributed to decreasing security contractor incidents, yet continued improvement is required.

Concerns of waste, fraud, and indirect insurgent funding in convoy contracts in Afghanistan increase the risk to the mission of using PSCs. In these cases contracting for security services is not appropriate unless the potential benefits outweigh the associated risks.

Risk considerations for contract security in Afghanistan

The scale and intensity of U.S. contingency operations in Afghanistan, the challenging security environment, and the Afghan government's policy toward private security contractors all warrant a discussion of contract security issues in that country.

As of June 30, 2011, Defense had over 15,000 private security contractor personnel working in Afghanistan, more than double the count of June 2009. Of these,

- over 13,000 were Afghan nationals,
- nearly 1,300 were third-country nationals, and
- about 700 were U.S. nationals.[23]

About 12,000 additional private security contractors and subcontractors were working in Afghanistan supporting State and USAID as of fall 2010.[24]

23. Deputy Assistant Secretary of Defense (Program Support), "Contractor Support of U.S. Operations in the USCENTCOM Area of Responsibility, Iraq, and Afghanistan," July 7, 2011. The numbers are about 4,000 lower than the previous quarter's report as a result of licensing issues with the Afghan government and compliance with Presidential Decree 62.

24. GAO Report 11-1, "Iraq and Afghanistan: DOD, State, and USAID Face Continued Challenges in Tracking Contracts, Assistance Instruments, and Associated Personnel," October 1, 2010, 21.

The security landscape in Afghanistan is in flux. In response to the Afghan government's decree of August 17, 2010, the country's Ministry of the Interior issued a "bridging strategy" implementation plan on March 15, 2011.[25] The bridging strategy addresses implementation of President Karzai's decree, exempting private companies that provide security for diplomatic organizations. Otherwise, PSCs will be unable to provide security for development or reconstruction projects after March 2012, and for international-forces' convoys and sites after March 2013.

The Afghan government's plan is that functions prohibited to foreign PSCs will be assumed by an Afghan government-controlled Afghan Public Protection Force (APPF). The U.S. government supports the bridging strategy and creation of the APPF, but has conditioned its support on the APPF's ability to assume responsibility and on the Afghan government's establishing acceptable administrative procedures.[26]

Considering the risks and appropriateness of contracting for private security in Afghanistan requires noting the distinctions among static security, personal security, and convoy security.

Security for bases, camps, and diplomatic posts

Static security for bases, camps, and diplomatic posts involves considerations different from those applicable to convoy security.

The biggest threat is from insurgent attempts to target bases and camps in order to inflict casualties on U.S. forces. Other kinds of problems arise from relying upon Afghan PSCs who recruit local nationals. A Pashtun PSC guarding a base or camp in a contested Pashtun area may have pro-insurgent personnel in its workforce. However, bringing in guards from other areas may cause suspicion and friction among the local civilians. The Afghan Presidential Decree 62 mandates that static security ultimately will be provided by an entity under Afghan governmental control. A later decree exempted foreign diplomatic security.

These considerations suggest selective phasing out of PSCs in the most at-risk positions, regions, and contexts. At forward camps in insurgent-controlled areas

25. Ministry of the Interior, Afghanistan, "The Bridging Strategy for Implementation of Presidential Decree 62, (Dissolution of Private Security Companies)," March 15, 2011.

26. Special Inspector General for Afghanistan Reconstruction (SIGAR), Audit Report 11-1SP, "Analysis of Recommendations Concerning Contracting in Afghanistan, as Mandated by Section 1219 of the Fiscal Year 2011 NDAA," June 22, 2011, 14.

where there is a significant likelihood of well-planned enemy attacks, military forces should provide static security.

At the other end of the spectrum, PSCs may serve well to guard outer areas and perimeter gates for forward operating bases in completely uncontested areas. Deciding which PSCs to use requires a challenging calculation involving the risks of different kinds of PSCs and the application of the Karzai decrees. The problem is not merely that third-country nationals (TCNs) may be costlier than Afghans. Using TCNs may erode local support by removing employment opportunities for local Afghans. Using PSCs for static security in low-risk areas serves its classic function of freeing up troops for combat operations. That said, improvements are needed in PSC vetting, training, arming, weapons control, oversight, and management. For example, during March 2011 travel in Afghanistan, Commission members and staff learned of drug paraphernalia and ingredients for improvised explosive devices having been found in hired guards' possession.

Afghanistan requires a risk-based analysis, with selective phasing-out of private security in the riskiest areas. In some roles, however, if the benefits associated with PSC use are outweighed by the risks, reform rather than phase-out is the reasonable approach.

Afghan decree limiting foreign security firms. (Afghan government document)

فرمان

رئیس جمهوری اسلامی افغانستان

در مورد انحلال موسسات امنیتی خصوصی

ماده اول:

ماده دوم:

ماده سوم:

Personal-security details

So long as the U.S. military continues its minimal participation in personal-security missions, the State Department has no practical alternative to using contractors. State's Bureau of Diplomatic Security has only about 1,800 Diplomatic Security agents world-wide, and cannot meet all of the Department's security needs amid the Afghan insurgency without contractor support.

Changing State's personal-security practices in Afghanistan would entail heavy burdens, at least in the near term. But change in this function does not appear urgent. When the Karzai government demanded changes to reduce the presence of foreign private-security companies, it exempted personal-security details used by the Department of State. Otherwise, an agreement between the International Security Assistance Force and the Afghan government calls for phasing out PSC performance of personal-security missions by 2012 and turning responsibility over to the Afghan Public Protection Force. It is uncertain whether this process will be completed on schedule.

There is room for improvement. Many important reforms made in Iraq have not been implemented in Afghanistan. They include reliable incident-reporting mechanisms for all PSCs and compliance with arming-authorization and host-nation regulations. Documentary requirements such as arming authorizations and rosters are far from complete. The ACOD in Afghanistan does not function at the same level as the ACOD has in Iraq. Many other inadequacies and needed reforms could be cited. These improvements were useful in Iraq, and need to be better applied in Afghanistan and in future contingencies.

Afghanistan requires a risk-based analysis, with selective phasing-out of private security in the riskiest areas.

Convoy security

Convoy security in Afghanistan has several features that suggest PSCs should be phased out or at least sharply restricted for that function.

The Commission has previously noted that "contractors who perform movement security in Iraq and Afghanistan are likely to traverse hostile environments and enter into or generate high-risk situations."[27] That concern primarily involved potential (and actual) civilian casualties, as well as alienation of the local population that could undermine U.S. and allied political initiatives and increase sympathy for the Taliban. An additional concern in Afghanistan is that convoys have become vulnerable to extortion, generating payments that flow to local warlords or to insurgents who control or contest a particular stretch of road.[28] On high-volume roads, insurgents concentrate their efforts to target convoy traffic.

The U.S. military has already limited its use of private security for convoys, furnishing its own security for convoys carrying critical material such as ammunition or military vehicles. Also, American forces provide security when convoy contractors identify certain routes as particularly hazardous enemy-controlled roads.

27. Commission second interim report, "At what risk? Correcting over-reliance on contractors in contingency operations," February 24, 2011, 17.

28. This issue, as embodied in the Department of Defense's Host Nation Trucking Program, was explored at length by the then-majority staff of the U.S. House Subcommittee on National Security and Foreign Affairs, House Committee on Oversight and Government Reform. See U.S. House Committee on Oversight and Government Reform, Subcommittee on National Security and Foreign Affairs, Majority Staff Report, "Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan," June 2010.

Phasing out PSC convoy security could be selective. Main roads in much of the western and northern provinces of Afghanistan are not under insurgent control. Convoy-security risks could also be mitigated by replacing PSCs with military guards for high-volume movement along the contested parts of the most heavily traveled routes such as the paved "Ring Road" linking Kabul, Kandahar, Herat, and other cities. Also, U.S. and Afghan forces could cooperate in providing military security for convoys.

Many important reforms made in Iraq have not been implemented in Afghanistan.

A selective phasing out of PSC-provided convoy security would not erase the need for reforms. More rigorous vetting of PSC subcontractors and checking of their armed employees would help, as would tracking and video records of convoy movements and debriefings of convoy personnel.

► RECOMMENDATION 3

Phase out use of private security contractors for certain functions

- Phase out use of host-nation private security contractors in Afghanistan for the convoys on high-volume roads that the insurgency controls or contests. Current alternatives include U.S. military, Afghanistan National Army units, the new Afghan government-sanctioned security providers established under the Karzai decrees as the Afghan Public Protection Force, or some combination of the above.

- Evaluate each static-security site to assess the risk associated with the use of contractors. Where the military commander determines there is a high risk, use military forces. Where the commander determines the high risk is specifically the result of using local-national contractors, use military forces or third-country national PSCs for security.

Interagency agreement on security in contingency zones is needed

Following the watershed events of Nisur Square in September 2007, a Memorandum of Agreement (MOA) between Defense and State was signed regarding the use of armed contractors in Iraq.[29] This document broadly defined procedural requirements and standards in the selection, vetting, training, equipping, and accounting for PSCs under Defense and State in Iraq.

There is no similar interagency guidance applicable to all federal agencies regarding the proper use of PSCs in Afghanistan or future contingency operations and incorporating lessons learned since December 2007.

The United States has learned lessons, especially in Iraq, regarding effective oversight over PSCs. Examples include interagency-coordinated operations

U.S. Marine convoy, Helmand province, Afghanistan. (U.S. Marine Corps photo)

29. Department of Defense and Department of State, memorandum, "Memorandum of Understanding Between the U.S. Department of State and the U.S. Department of Defense and the U.S. Agency for International Development Relating to Contracting in Iraq and Afghanistan," December 5, 2007.

centers, command and control authorities, clear policies, and technical monitoring of mobile security.

Despite the success of some risk-mitigation strategies, many have not been implemented across the agencies or required in future contingency or combat operations involving the use of PSCs. The U.S. government will likely repeat costly mistakes in future contingencies if best practices are not institutionalized.

The U.S. government will likely repeat costly mistakes in future contingencies if best practices are not institutionalized.

Clearly identifying agency roles and responsibilities in the management of PSCs during contingencies allows agencies to prepare for their responsibilities in funding, planning, staffing, and training prior to the actual requirement. In the current military-to-civilian transition in Iraq, State is challenged to quickly fill the voids in specific capabilities as Defense draws down its forces. In addition to assuming Defense Logistics Agency and Army LOGCAP contracts in Iraq, State is adding contracts for support in security, aviation, response capabilities, and medical care. State could at some point face similar challenges in Afghanistan.

An MOA between federal agencies and applicable to all contingency operations regarding the use of PSCs would identify areas that must be addressed by all agencies prior to deploying security contractors.

Necessary conditions, such as serious-incident definition and reporting, effective incident reporting, points of contact, tactical responsibilities like quick-response forces and medevac services, investigative processes, and legal accountability of contractors must be identified to determine whether an agency is prepared to employ armed contractors in a responsible manner.

► **RECOMMENDATION 4**

Improve interagency coordination and guidance for using security contractors in contingency operations

Provide greater control and accountability for security contracting:

- Hold the ambassador, USAID mission director, and military commanders responsible for making, publicizing, and revising their determinations of security-contracting appropriateness as conditions change, giving particular consideration to the geographic, temporal, and organizational proximity to armed conflict.
- When private security or other contractors are to be armed, they should be overseen by government employees and tracked in a centralized system, as is done in Iraq.
- Reliance on private security contractors should be accompanied by greater use and emphasis on vetting, training, authorizing arms, and weapons control; post-convoy debriefing, locational tracking and video monitoring; and more thorough and comprehensive management.
- Execute an interagency agreement to provide guidance on security contracting.
- Defense, State, and USAID should develop and enter into a standing interagency MOA, incorporating lessons and best practices learned in Iraq and Afghanistan, to provide guidance in use of private security contractors in future contingencies.
- This standing MOA should be modified within 90 days of a declared combat operation or other contingency to specifically address the needs and circumstances of that operation.

Iraqi contractors on school construction site, Baghdad, Iraq. (U.S Air Force photo)

Chapter 3

Inattention to contingency contracting leads to massive waste, fraud, and abuse

Inattention to contingency contracting leads to massive waste, fraud, and abuse

Contingency-contract waste is a breach of agencies' fiduciary duty to efficiently manage budgets and resources. Contract-related fraud undermines the United States' defense, diplomatic, and development missions. Though calculating the exact dollar amount lost through waste and fraud is problematic, determining some measure of their extent is important in assessing their impact on contingency goals and objectives.

The Commission estimates that waste and fraud together range from $31 billion to $60 billion.[1] Given the often chaotic environment in Iraq and Afghanistan, this is a conservative estimate of the money that has been lost through contingency contracting. The Commission estimates that at the mid-range, waste and fraud during contingency operations in Iraq and Afghanistan averaged about *$12 million every day for the past 10 years.*

Qualitative assessments of the impact of waste and fraud are also important because losses weigh heavily on political and operational effectiveness.

1. The Commission examined authoritative evidence on waste and fraud. It estimates that wartime-contracting waste in Iraq and Afghanistan ranges from 10 percent to 20 percent of the $206 billion spent since fiscal year (FY) 2002, projected through the end of FY 2011. The Commission also estimates that fraud during the same period ran between 5 and 9 percent of the $206 billion.

Concerns about wartime contracting have surfaced in numerous media reports.

The Gang That Couldn't Shoot Straight
Six billion dollars later, the Afghan National Police can't begin to do their jobs right—never mind relieve American forces
— Newsweek, March 29, 2010
How the US Funds the Taliban
—The Nation, November 11, 2009
Weak Oversight Mars Success of Iraq Hotel
— AP, July 26, 2009
$40M fuel theft from Army prompts global manhunt
—Time, April 16, 2009
US Embassy in Iraq missing property worth millions
— AP, June 2, 2010

Headlines like those below illustrate the media attention given to waste, fraud, and abuse in wartime contracting.

Standards for successful contract outcomes are breached in many aspects of the contingency-contracting process. Agencies often fail effectively to:

- coordinate their project plans with foreign and domestic mission partners;
- estimate the costs of performing contracts in dangerous environments when making project-selection decisions;
- consider the host nation's ability to finance and sustain stabilization and reconstruction projects when developing project requirements and planning for effective transfers;
- set and meet goals for effective competition;
- control contractors' costs during their performance under undefinitized contract actions, even though performance continues without benefit of having defined requirements or negotiated terms and conditions;
- assess and mitigate contingency contractors' potential for organizational conflicts of interest; and
- monitor and correct poor contractor performance.

Despite years of experience with contingency contracting in Iraq and Afghanistan, the root causes of these failures persist.

Pentagon Hit for Lax Oversight of $4.2 Billion Afghan Food Contract
— Bloomberg, March 4, 2011
U.S. pulls $644M Iraq jobs program: Fraud, 'millions' to insurgents alleged
— USA Today, July 27, 2009
Audit: Agencies can't readily account for Afghanistan spending
— CNN, October 28, 2010
Audit: Pentagon overpaid oilman by up to $200 million
— Washington Post, March 17, 2011
With U.S. Aid, Warlord Builds Afghan Empire
— New York Times, June 5, 2010

Waste from contingency contracting increases mission cost and diminishes mission success

As shown in the Commission's estimate, the waste incurred in Iraq and Afghanistan has added enormously and unnecessarily to the cost of U.S. involvement.

There is no commonly accepted methodology for determining the extent of waste. The Commission bases its estimate on information derived from multiple sources: 25 hearings; interviews with hundreds of military and civilian officials during 15 trips in theater; hundreds of audit and inspection reports on projects in Iraq and Afghanistan; consultations with scholars in academia, policy institutes, and federally funded research-and-development centers; and a full-time staff presence in Iraq and Afghanistan.

The waste incurred in Iraq and Afghanistan has added enormously and unnecessarily to the cost of U.S. involvement.

The Commission's estimate of waste does not include what is yet to be revealed from expected shortcomings in program and project sustainability. The next chapter deals with these sustainability issues.

The Commission's research and the audits conducted by oversight organizations document agencies' repeated and unacceptable failures to meet standards for successful contract outcomes. Examples of poor contract outcomes highlight the areas where the risk of waste requires mitigation or prevention.

Wasteful contingency-contract outcomes have three contexts: host-nation issues, programs and projects, and individual contracts.

In Iraq and Afghanistan, significant *host-nation* issues include:

- limited economic-absorptive capacity,
- unsustainable development projects,
- diversion of contract funding to the insurgency, and
- unanticipated security costs.

At the level of programs and projects execution, significant aspects include limited competition and lack of control over poor performance by subcontractors.

At the level of *individual contracts*, significant aspects include failure to define requirements and definitize orders; lack of planning; inadequate oversight of construction, and poor oversight of diverse services. All of these are often coupled with poor contractor performance and failures often result from several interrelated conditions.

Host-nation issues

Limited economic absorptive capacity

In Afghanistan, the country's limited absorptive capacity poses a serious problem. When U.S. operations began there in 2001, Afghanistan's per capita gross domestic product was $800.[2] As part of the counterinsurgency mission, the United States has poured more resources and development funding into the country than the domestic economy can support.

$360 million USAID agricultural development project—The Afghan Vouchers for Increased Production in Agriculture began as a modest $60 million initiative in 2009, distributing vouchers for wheat-seed and fertilizer to counteract drought-related food shortages in Afghanistan's north. Under pressure to inject $1 million each day into a dozen or so key terrain districts for seeds, fertilizer, tools, cash-for-work, and community development, USAID within a few weeks turned the initiative into a massive $360 million stabilization program in the south and east. The pressure to quickly spend the millions of dollars created an environment in which waste was rampant. Paying villagers for what they used to do voluntarily destroyed local initiatives and diverted project goods into Pakistan for resale.[3]

Afghan farmer, Helmand province, Afghanistan. (U.S. Marine Corps photo)

2. Central Intelligence Agency, "World Fact Book for Afghanistan," 2001.

3. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, 20; Michael Bowers, Regional Program Director for South Asia, Mercy Corps, Commission hearing, April 11, 2011, transcript, 9; USAID IG Audit Report No. 5-306-10-008-P, "Audit of USAID/Afghanistan's Vouchers for Increased Productive Agriculture (AVIPA) Program," April 20, 2010, 7.

Unsustainable development projects

The U.S. government built many facilities in Iraq and Afghanistan that proved unsustainable.

$6.4 annual billion Defense (CSTC-A, USACE) Afghan National Security Forces—Between FY 2006 and FY 2011, Congress appropriated $38.6 billion, an average of $6.4 billion a year, to the Combined Security Transition Command-Afghanistan (CSTC-A) program to train, equip, and provide other support for the Afghan National Security Forces (ANSF). Such costs far exceed what the government of Afghanistan can sustain, so it is unclear how those costs will be funded in future. Meanwhile, $11 billion of facilities constructed by the U.S. Army Corps of Engineers (USACE) for the ANSF are "at risk."[4]

The $6.4 billion per year Combined Security Transition Command-Afghanistan program to train, equip, and provide other support for the Afghan National Security Forces goes far beyond what the government of Afghanistan can sustain.

$82 million Defense Afghan Defense University—Defense awarded a contract for about $82 million for the design and construction of Afghan Defense University, Afghanistan's West Point. As the size of the ANSF tripled, the contract costs grew.[5] During an August 2010 Commission trip to Afghanistan, Defense officials said it would cost $40 million per year to operate and maintain—an amount possibly beyond the Afghan government's ability to fund.

Afghan National Army soldier questioning villager. (U.S. Marine Corps photo)

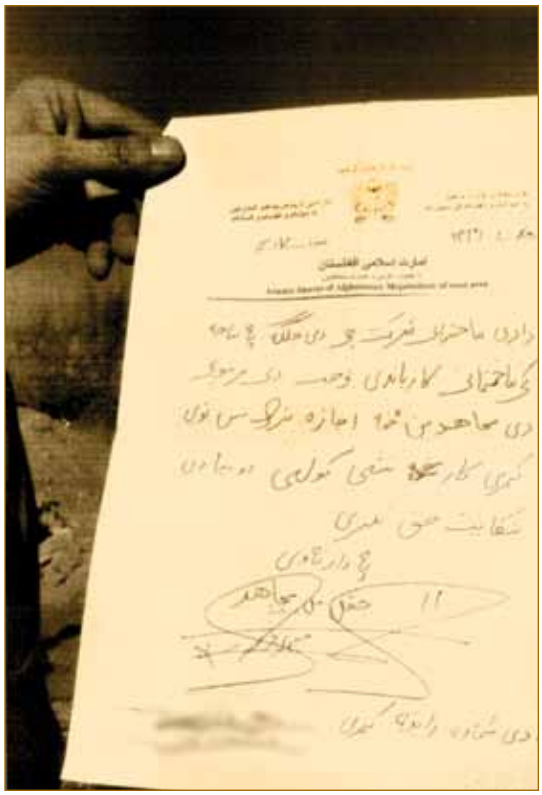
4. Major General Arnold Fields, USMC (Ret.), Special Inspector General for Afghanistan Reconstruction (SIGAR), Commission hearing, January 24, 2011, transcript, 30-32.

5. Major General Arnold Fields, USMC (Ret.), Special Inspector General for Afghanistan Reconstruction (SIGAR), written statement, Commission hearing, January 24, 2011, 2.

Diversion of U.S. funds

In Iraq and Afghanistan, U.S. funds have been diverted to insurgents and warlords as a cost of doing business in the country. In Afghanistan, insurgents, warlords, or other groups control or contest parts of the country. They threaten to destroy projects and harm personnel. The Commission finds it particularly alarming that Afghan subcontractors on U.S.-funded convoys, road construction, and development projects pay insurgent groups for protection.

Mujahedeen threat letter sent to contractor:



Islamic Imarat of Afghanistan
Mujahedeen of west area

Letter # 1207

This construction company which is working in the Jagla area cannot continue to work unless it does obtain permission from the Mojahedeen.

Or else, it does not have the right to complain.

Sincerely,

Haqmal Mojahed

You can contact with this phone number XXXXXXXXXX.

Source: Provided by a representative of a provincial reconstruction team, Afghanistan, January 25, 2011, translated for the Commission by a USAID translator/interpreter, June 1, 2011.

While there is no official estimate of the amount of U.S. funds diverted to insurgents, it certainly comes to a significant percentage of a project's cost. The largest source of funding for the insurgency is commonly recognized to be money from the drug trade. During a March 2011 trip to Afghanistan, experts told the Commission that extortion of funds from U.S. construction projects and transportation contracts is the insurgent's second-largest funding source.

Afghan contractors hired under the Host Nation Trucking program have turned to Afghan private security contractors. These Afghan subcontractors in turn pay off

the insurgents or warlords who control the roads their convoys must use.[6] Almost 6,000 Afghan truck movements a month are funded under the program. Diversion on this scale did not occur in Iraq, where the U.S. military provided most of the escorts for similar convoys.

Extortion of funds from U.S. construction projects and transportation contracts is the insurgents' second-largest funding source.

Many contracts other than transportation provide opportunities for diversion:

- Afghan subcontractors on a USAID community-development program in Kunar Province were paying up to 20 percent of their total subcontract value to insurgents for "protection." The USAID IG estimated that over $5 million of program funding was at risk of falling into insurgents' hands.[7]
- A congressional staff report cited Afghan Taliban demands for pay-offs from businesses and households for electricity generated by USAID-funded projects. This occurs in Taliban-controlled areas like Helmand Province.[8]

Because they directly strengthen the insurgency, diverted funds pose far more danger than other kinds of waste and have a disproportionately adverse impact on the U.S. effort.

Unanticipated security costs

Agencies continue to take on some projects without sufficient regard for the costs of security. Numerous audits estimate that unanticipated security costs increased expenses by 25 percent.[9]

Numerous audits estimate that unanticipated security costs increased project expenses by 25 percent.

Failure to anticipate, estimate, and factor spending on security costs into project and program decisions has led to massive waste as projects are shut down or abandoned.

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6. U.S. House Committee on Oversight and Government Reform, Subcommittee on National Security and Foreign Affairs, Majority Staff Report, "Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan," June 2010, 29.

7. USAID IG Review Report 5-306-10-002-S, "Review of Security Costs Charged to USAID Projects in Afghanistan," September 29, 2010, 6.

8. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, 10.

9. GAO Report GAO-07-30R, "Rebuilding Iraq: Status of Defense's Reconstruction Program," December 15, 2006, 8; GAO Report GAO-05-737, "Rebuilding Iraq: Actions Needed to Improve Use of Private Security Providers," July 2005, 33; SIGAR Audit 10-4, "Afghanistan Energy Supply Has Increased but an Updated Master Plan is Needed and Delays and Sustainability Concerns Remain," January 15, 2010, 11; World Bank Report 34582-AF, "Afghanistan: Managing Public Finances for Development," 2005, 17, 29.

$176 million USAID Khost-Gardez road—Costs more than doubled for the Khost-Gardez road project built by a Louis Berger Group/Black & Veatch joint venture. The project was designed to link southeastern Afghanistan to the national highway system. The original USAID contract had a value of $86 million.[10] High security costs could double that figure by the time the contract is complete.

Programs and projects

Inadequate competition for contracts and task orders

Agencies' procedures failed to generate effective competition. The government awarded a large logistics-support contract that ran for a decade without a re-competition, with cost-reimbursable task orders that were not subject to competition. For different reasons, its replacement contract also failed to provide effective competition.

$36.3 billion Defense (Army) LOGCAP III contract—The Army has awarded a number of contracts under its worldwide Logistics Civil Augmentation Program (LOGCAP). Of these contracts, the largest is the LOGCAP III contract supporting the wars in Iraq and Afghanistan. The base contract for LOGCAP III was awarded competitively, but lasted for 10 years without competition on any of its task orders.

Kellogg Brown and Root (KBR) was awarded the LOGCAP III contract in December 2001, as sole provider. The contract had one base year followed by nine option years. War requirements rapidly and unexpectedly expanded the contract value to more than $36.3 billion from the time of award.[11]

As sole provider, without the discipline of task-order competition, KBR proposals included large amounts of questioned and unsupported costs identified by the Defense Contract Audit Agency (DCAA). KBR billings also included large amounts subject to challenge for disallowance, such as unjustified dining-facility costs.[12]

$6 billion Defense (Army) LOGCAP IV contract—Not until 2009—nearly a decade after the start of LOGCAP III—did the Army award task orders for Afghanistan under the successor LOGCAP IV contract. Factors contributing to the delay included a lack of government acquisition personnel,

10. Afghanistan Infrastructure and Rehabilitation Program Press Release, "President Karzai and U.S. Ambassador Wood Witness Contract Signing for Gardez-Khost Road Construction," April 26, 2008.

11. Commission analysis of Federal Procurement Data System-Next Generation (FPDS-NG) data.

12. April G. Stephenson, Director, DCAA, statement, Commission hearing, May 4, 2009, 9-11.

competing priorities, commanders' resistance to shifting contractors, and contractor protests.

Delay in implementing a competitive strategy for LOGCAP IV, combined with a failure to have competition at the task-order level at the outset of LOGCAP III, resulted in tremendous waste. The Commission estimates that waste from these two factors alone was $3.3 billion.[13]

The LOGCAP IV task-order competition plan had a number of aspects that created "mini-monopolies." Each geographically awarded task order (Fluor in the northern Afghanistan provinces, DynCorp in the southern provinces) consisted of an initial year and four option years, a long period without a new competition. This meant that all new work in the two regions of Afghanistan went to single sources without further competition. The Army has in effect awarded two single-source, long-term task orders for Afghanistan.

Delay in implementing a competitive strategy for LOGCAP IV, combined with a failure to have competition at the task-order level at the outset of LOGCAP III, resulted in tremendous waste.

In the first nine months of LOGCAP IV, more than $500 million in new work was added to the LOGCAP IV Afghanistan task orders awarded in 2009—over $235 million to DynCorp for Afghanistan South and $270 million to Fluor for Afghanistan North. By comparison, over the life of the LOGCAP III task orders for work in Iraq, the Army issued 11,000 modifications adding more than $2.7 billion in new work.

Contractors preparing to move U.S. military vehicles, Kuwait. (Commission photo)

13. The Commission arrived at this estimate by applying the Army Sustainment Command's observed results of a 9 percent reduction in operating costs from the use of LOGCAP IV in Afghanistan (referenced in its business case analysis for transition from LOGCAP III to IV, March 4, 2010) to the $36.37 billion in obligations under LOGCAP III as of September 30, 2010.

Contract extensions limit competition

Another kind of problem can arise at the end of a contract's period of performance when the government issues a long-term sole-source extension or contract "bridge" rather than recompeting the requirement. Agencies have justified long-term extensions, citing a need to obtain contractor support until they can take all the steps required to compete a follow-on contract. However, the agencies often have failed either to develop an acquisition strategy to recompete the follow-on contract promptly, or to compete a short-term contract that will bridge the gap between the expiration date of the incumbent's contract and the award date expected for the follow-on contract.

Some of the programs extended for long periods or expanded without competition are valued at over a billion dollars.

$3 billion Defense (DLA) food service contract—Supreme Foodservice provided about $3 billion in food, water, and non-food supplies for the troops in Afghanistan between 2005 and 2010. In December 2010, the Defense Logistics Agency (DLA) awarded it a one-year extension contract with two six-month option periods, for a total estimated value of $4 billion.

Defense (Army) LOGCAP III base-life services task order—The Army awarded KBR, without competition, a task order under LOGCAP III for Base Life Services in Iraq in 2010. Commission hearings in spring 2010 raised doubts as to why the Army did not compete the task-order award under LOGCAP IV instead.[14]

$1 billion Defense (INSCOM) translation services contract—INSCOM, the U.S. Army Intelligence and Security Command, expanded its contract with Mission Essential Personnel, LLC for linguist and translator services when the contract neared its funding ceiling in 2010, and again in 2011. Together these steps increased the contract ceiling by over a billion dollars.

Other problems that inhibit competition

A serious competition problem occurred with the handoff of the billion-dollar program for training the Afghan National Police from State to Defense, resulting in lengthy delays before the final contract award.

$1.5 billion Defense (CSTC-A) Afghan National Police training program—In 2009, the Combined Security Transition Command-Afghanistan (CSTC-A) planned to award a task order for training the Afghan National

14. Commission hearing, March 29, 2010, transcript, 3.

Police (ANP). This indefinite-delivery contract limited competition to five contractors who provided the Army with counter-narcoterrorism technology but had not provided police training. The competition under this Army contract did not include the State Department's incumbent, DynCorp.

DynCorp protested to GAO, which sustained the protest, finding that the new award of a national police training program was outside the scope of an indefinite-delivery, indefinite-quantity (IDIQ) contract focused on counternarcotics programs. The original date for hand-over from State to Defense was mid-November 2009, yet not until December 2010 was DynCorp competitively awarded a two-year, $718 million base contract for ANP training with a $322 million one-year option.

Other problems ranged from awards with no justification for the absence of competition to awards with no audits of proposals—even for billion-dollar task orders. For the Iraqi police training program, State awarded a $1.4 billion task order to DynCorp, foregoing competition.

$1.4 billion State Department Iraq police training task order—In February 2004, State awarded a $2.5 billion contract to DynCorp to support its Iraqi police training program. Task Order 1436, worth $1.4 billion, was subsequently awarded for only four months as an exception to "fair opportunity" to compete without stating a justification for doing so. It was extended by modifications through May 2008.[15] The Special Inspector General for Iraq Reconstruction found no written support for the exception to "fair opportunity."[16]

The Defense Logistics Agency (DLA) failed to follow proper procedures for the procurement of fuel.

$2.7 billion Defense (DLA) fuel contract—Starting in 2004, DLA Energy awarded four contracts totaling $2.7 billion to the International Oil Trading Company (IOTC) for delivery of fuel in Iraq. The Defense inspector general found that DLA contracting officers improperly determined that adequate price competition existed even though only one firm could perform. Since the procurements were wrongly deemed "competitive," IOTC was not required to submit certified cost and pricing data. Consequently, DLA did not perform a detailed cost analysis of what IOTC charged. DLA paid IOTC about $200 million more than a cost analysis could support.[17]

15. SIGIR Audit Report 10-008, "Long-Standing Weaknesses in Department of State's Oversight of DynCorp Contract for Support of the Iraqi Police Training Program," January 25, 2010, 7-9.

16. Ibid., i, 2.

17. Defense IG Report D-2011-049, "Competition Issues and Inherently Governmental Functions Performed by Contractor Employees on Contracts to Supply Fuel to U.S. Troops in Iraq," March 15, 2011, 5.

The problems with competition and awarding contracts indicate the need for reforms to apply the discipline of competition in contingency operations.

Problems with subcontracting

Subcontracting has posed numerous problems in Iraq and Afghanistan. In these countries, key subcontractors came from cultures in which bribes and kickbacks are common, and United States' legal institutions often have little or no leverage over foreign subcontractors.

$400 million Defense (Army) LOGCAP III subcontracts—Starting in 2002, the Iraq general manager for Tamimi, a Kuwaiti company, gave kickbacks to KBR's LOGCAP III managers on initial awards of contracts. Subsequently, KBR awarded additional subcontracts for dining-facility services to Tamimi worth more than $700 million. Later, the general manager of Tamimi was convicted of related felonies.[18] Finally, in March 2011, the Department of Justice filed a claim that KBR had engaged in false claims.

Both DCAA and the Commission demanded more complete records of these subcontracts, but at a 2010 Commission hearing Tamimi refused, relying on the fact that they performed under a fixed-price contract.[19] It is difficult for the government to investigate the circumstances of performance by a foreign subcontractor working under a fixed-price contract.[20]

The Commission's August 2009 hearing examined the five-year, nearly $5 billion contract for translator services in Iraq between the U.S. Army Intelligence and Security Command (INSCOM) and prime contractor Global Linguist Solutions (GLS).

In Iraq and Afghanistan, key subcontractors came from cultures in which bribes and kickbacks are common.

$4.6 billion Defense (INSCOM) linguistics service subcontracts—GLS subcontracted work to Northrop Grumman, L-3 Communications, and other vendors. DCAA found that GLS subcontracted almost $3 billion of work, issued under a contract with an estimated value of $4.6 billion, to multiple subcontractors, some of which merely provided pass-through payments to the linguists, adding little value.

A large subcontract was awarded by GLS to its main competitor L-3, an award that appeared to be an accommodation to a firm that had protested

18. United States of America v. Mohammad Shabbir Khan, Case No. 06-cr-40055 (C.D. Ill. 2006).

19. Commission hearing, July 26, 2010, transcript, 110-111, 182-184.

20. 10 U.S.C. 2313.

the award to GLS. To make up for the contract's cost increases from this "accommodation," GLS trimmed the salaries of linguists, and led them to believe the government had directed the salary reductions.[21]

The GLS procurement involved two large firms that were expected to compete—one of which protested the Army's contract award and later became a subcontractor to the awardee, to their mutual benefit.[22]

Afghan subcontractors have proved to be unreliable, while agency oversight has been especially difficult to implement.

$5.9 million Defense (USACE) Afghan National Police construction project—In 2007, the U.S. Army Corps of Engineers (USACE) was provided with $5.9 million to construct seven Afghan National Police (ANP) district headquarters in Helmand and Kandahar Provinces. It awarded the contract to the Afghan-owned Basirat Construction Company. Basirat subcontracted work to two other Afghan-owned construction companies implicated in the problems that followed. SIGAR auditors identified construction deficiency costs up to $1 million. The flawed work meant contract requirements went unmet and that delivery of the facilities to the ANP was delayed.[23]

$17.6 million Defense (AFCEE) infrastructure project—In September 2007, the Air Force Center for Engineering and the Environment (AFCEE) awarded a $17.6 million construction contract to CH2M HILL for infrastructure work at Camp Phoenix, an Army installation in Afghanistan. During the months of April and May 2009, ENCORP (a subcontractor to CH2M HILL) failed to pay their subcontractors, and the owner fled Afghanistan with around $2 million. Later, the second-tier subcontractors walked off the job site for lack of payment. One of the second-tier contractors removed two 750-killowatt generators and other electrical material from the jobsite to hold as collateral for the money it was owed by ENCORP until CH2M HILL agreed to pay them. Completion of a key center at the camp was delayed for over a year, resulting in inadequate housing for several hundred military personnel for over 18 months.

21. Commission hearing, August 12, 2009, transcript, 1, 7, 8, 20-21, 28, 32, 35.

22. Ibid., 1, 7.

23. SIGAR Audit 11-3, "ANP District Headquarters Facilities in Helmand and Kandahar Provinces Have Significant Construction Deficiencies Due to Lack of Oversight and Poor Contractor Performance," October 27, 2010, ii, 4.

Individual contracts

Problems with defining requirements and managing contractor performance

At the level of individual contracts, significant factors leading to waste include failures to define requirements, poor use of management resources, and poor oversight. These shortcomings are often linked to poor contractor performance.

The government accepts great risk when it fails to effectively define detailed requirements before it awards a contract.

The government accepts great risk when it fails to effectively define detailed requirements before it awards a contract. Inadequately defined contract requirements are particularly vulnerable to waste in construction contracting, since the government often provides engineers with little or no guidance. Two Afghanistan projects exemplify this failure.

$57 million USAID health and education construction program—Afghanistan entered into a cooperative agreement with the International Organization for Migration to meet health and education needs through the construction of 18 hospitals, midwife-training centers, and colleges in Afghanistan. The agreement was subsequently modified to conform to new, more rigorous international building codes and to address security issues, all adding to the project's time and expense.

U.S. Air Force and USAID personnel at school site, Panjshir Province, Afghanistan. (Defense photo)

$24 million State prison renovation project—Similarly, planning for the Pol-i-Charkhi Prison Renovation Project involved mid-course changes in requirements. In addition, a poorly performing contractor was selected to undertake the work. A base contract with Al-Watan Construction Company was modified twice by State. The first modification, to accelerate the schedule, cost $3.6 million. The second modification, for the renovation of the industries building and the staff barracks cost $500,000.[24] State issued a stop-work order effective November 5, 2010, to Al-Watan. Basirat Construction, the design consultant and quality-assurance firm, also received a stop-work order in November 2010, when the project was 66 percent complete.

24. Narcotics Affairs Section (NAS)/Bureau of International Narcotics and Law Enforcement (INL), "NAS/INL Construction Overview," November 16, 2010, 9.

Accurate and complete requirements are also essential for non-construction projects. When the government does not provide specific requirements, contractors sometimes charge excessive or unnecessary costs for the services.

$3 billion Defense (DLA) subsistence contract—The Defense Logistics Agency has paid Supreme Foodservice AG about $3 billion as the Subsistence Prime Vendor (SPV) for food, water, and some non-food items in Afghanistan. In 2011, the Defense inspector general estimated DLA overpaid Supreme by about $124 million in transportation (airlift) and packaging costs.

Certain items, like fresh fruit and vegetables, required airlift to isolated bases, but DLA did not include this requirement in the original contract. The contracting officer attempted to rectify the omission by tasking Supreme with providing "premium airlift," which it did at a total cost of over $450 million.

DLA failed to ask the U.S. Transportation Command (TRANSCOM), which has extensive experience contracting for airlifting in Afghanistan, to review the requirement. The Defense IG recommended that DCAA determine a fair and reasonable price for the airlift. Commission inquiries found that DCAA is currently working on such a determination, which may lead to retrieving excess funding from Supreme.

When the government does not provide specific requirements, contractors sometimes charge excessive or unnecessary costs for the services.

Problems with contract definitization

Problems also arise when agencies fail to definitize contract or task-order terms and conditions in a timely manner. Acquisition regulations require that when it is not possible to negotiate a definitive contract in advance of award, the terms must be definitized within 180 days of award or before completion of 40 percent of the work.[25]

Agencies generally avoid using undefinitized orders because they permit a contractor to incur significant costs—which at times may be unnecessary and on which profit may be based—in the absence of fully defined constraints or contract terms and conditions.

In a contingency-contracting environment, agencies have all too often allowed a contractor to begin work under an "undefinitized" (nonspecific) contract or order.

25. FAR 16.603-2(c)(3); FAR 52.216-25; 10 U.S.C. 2326.

Waste from KBR support performed in Iraq under the LOGCAP III contract arose from billions of dollars of undefinitized task orders. Because of the questionable costs charged by the company, the DCAA sought to withhold hundreds of millions of dollars from contract payments.

Defense (Army) LOGCAP III undefinitized contracts—During 2003-2005, the U.S. Army awarded KBR numerous LOGCAP III task orders in Iraq on an undefinitized basis to supply accelerated services, despite the unpreparedness of both the officials and the contractor. Moreover, the task orders remained undefinitized even after delivery of billions of dollars in services. DCAA attributed the delay in definitizing the contracts to proposals by KBR that did not have sufficient specifics for negotiation and to insufficient staffing on the part of the agency.[26]

DCAA recommended, and the Army contracting officer agreed, to withhold 15 percent of the contract value under the regulations regarding undefinitized contracts. However, this was overruled by higher officials.

$2.5 billion Defense (USACE) fuel importing task orders—In March 2003, U.S. Army Corps of Engineers (USACE) awarded the Restore Iraqi Oil contract to KBR. USACE considered the $2.5 billion cost-plus award-fee-type contract requirement to be urgent, so the contracting officer directed KBR to begin work before definitive contract terms, specifications, and pricing could be negotiated.

KBR completed work and incurred virtually all costs on each of 10 task orders before Defense and KBR reached agreement on terms and conditions in the wake of changing requirements, funding challenges, and inadequate KBR proposals. DCAA questioned $221 million in excess KBR fuel payments. Eventually, Defense paid virtually all these costs, since the funds had already been expended by the contractor. Defense did, however, reduce the cost basis for the award fee by half the cost figure questioned by DCAA.

Shortfalls in managing contractor performance

Agency management and oversight of contractor performance is critical even in peacetime conditions. In contingency operations, problems in the early stages of the contracting process, such as inadequate planning and changing requirements, make agency management and oversight doubly important for controlling waste and achieving mission objectives. In Iraq and Afghanistan, performance problems

26. April G. Stephenson, Director, DCAA, Commission hearing, transcript, August 11, 2009, 12, 16-17.

were compounded because agencies failed to assign sufficient resources for management and oversight.

Agencies' failure to effectively monitor and correct poor contractor performance was widespread in both Iraq and Afghanistan. Lessons learned were not applied because U.S. personnel rotated frequently in and out of theater, staff at remote locations knew little about conditions on the ground, hundreds of contracts were involved, and for too long U.S. officials did not understand the importance of contingency-contracting activities.

In Iraq and Afghanistan, performance problems were compounded because agencies failed to assign sufficient resources for management and oversight.

$119 million Defense (USFOR-A) for vehicle leasing—Operating units on bases throughout Afghanistan require four-wheel drive vehicles. U.S. Forces-Afghanistan (USFOR-A) conducted a survey and determined that military units in country were leasing about 3,000 vehicles at an annual cost of $119 million. Because these vehicles are not centrally leased, managed, or maintained, the regional contracting commands are burdened with hundreds of small-dollar value leases that recur every year.

Worse still, vendors in Afghanistan were charging grossly exorbitant lease rates for the vehicles. According to USFOR-A, "we have driven the [vehicle] lease market into a state where vendors are able to charge rates that allow them to recoup almost 80% of the procurement cost during the first year of the lease."[27]

To its credit, USFOR-A took steps to get the costs under control, while also improving fleet management. In May 2010, USFOR-A began working with the General Services Administration (GSA) on a vehicle-lease program and determined that they could lease and maintain 1,000 vehicles for about $19 million per year. USFOR-A hopes to have the GSA-leased vehicles and centralized motor pools in place by November 2011. While laudable, the solution is being implemented 10 years after U.S. operations began in Afghanistan.

Vendors in Afghanistan were charging grossly exorbitant lease rates for vehicles.

Still, USFOR-A's preferred approach was to purchase the vehicles, and not lease them at all. Appropriations law requires that operation and maintenance funds be used for vehicle leases, and that procurement funds be used for vehicle purchases. But USFOR-A

27. USFOR-A, "Letter of Justification for CJOA-A Non-Tactical Vehicle Lease and Theater Motor Pool Maintenance and Repair Services," May 6, 2011, 1-2.

was unable to access procurement funds to purchase the vehicles and had no choice but to lease the vehicles it needed.

Two instances in the Iraq war illustrate how poor planning and inadequate oversight lead to higher than necessary levels of contractor personnel costs.

Defense (Army) LOGCAP III vehicle-maintenance task order—In 2009 a Defense IG report revealed that the U.S. Army paid for underutilized contractor personnel at Joint Base Balad, Iraq who were responsible for tactical-vehicle field maintenance. From September 1, 2008, through August 31, 2009, the actual utilization rate was just 10-15 percent of the requirement. KBR alerted only low-level government officials that the actual labor utilization was far below that of the contractor personnel being paid. The government did not act on this information. The Commission has estimated that for a particular category of labor services, almost $400 million paid to KBR was wasted through underutilization.

$193 million Defense (Army) LOGCAP III contractor drawdown—DCAA issued a report in October 2009 critical of KBR for not preparing a drawdown plan. The agency projected $193 million in savings through August 2010 if KBR were to reduce contractor personnel commensurate with the military drawdown.[28]

KBR accounted for about half of contractor personnel in Iraq. When bases closed and its personnel left those bases, KBR merely transferred some of them to other bases and continued to bill for their support.

In response to the DCAA report, in November 2009, the U.S. Army directed KBR to develop a drawdown plan. A February 2010 Commission trip to Iraq and a March 2010 Commission hearing revealed that KBR was slow to reduce its Iraq workforce. Moreover, the U.S. Army did not instruct KBR to promptly reduce its contractor workforce. The executive director of the U.S. Army's Rock Island Contracting Center testified at a Commission hearing that there was no contractual requirement against which to hold KBR accountable for the delay.[29]

Inadequate oversight of construction

In a counterinsurgency operation, contracting performance is particularly vulnerable to poor oversight. There may be a shortage of experienced and well-qualified contracting officer's representatives. Insecure conditions may make it

28. DCAA Audit Report 2131–2009R10502001, "Report on Audit of Labor Operations Relating to the Military Drawdown in Iraq," October 26, 2009, 2.

29. Commission hearing, March 29, 2010, transcript, 3, 17, 21, 32.

hard for them to check performance on-site. Contractors who are particularly likely to perform poorly may obtain contingency contracts or subcontracts due to flaws in the awarding process. And contractors may see any slackening of oversight as an opportunity to charge more or relax performance standards.

A substantial subcategory of the instances of poor oversight is construction contracts. The work occurs in the field and typically involves numerous subcontractors, many of them third- or host-country nationals with cultural differences from U.S. subcontractors.

Poor oversight may even mean rewarding bad work.

$62 million Defense construction of Baghdad Police College—Despite major problems with the work by Parsons Delaware, Inc., on a construction contract for Baghdad Police College, Parsons was paid $62 million for the work and received $5.3 million in award fees.

Baghdad Police College. (SIGIR photo)

$700 million State construction of Baghdad Embassy—State awarded a construction contract to First Kuwaiti General Trading and Contracting Company in July 2007 for the new embassy compound in Baghdad. State bypassed its traditional contracting office. Over $43 million in construction deficiencies occurred due to failure to comply with specifications, improper construction and installation, and use of sub-standard materials and equipment, among other defects.[30] In late 2009, the State IG recommended recovering $132 million from First Kuwaiti. State took no steps to recover the sum and continued to award contracts to First Kuwaiti through its U.S. partner.[31] In response to Commission questions, State said it may seek the $132 million as a response to claims by First Kuwaiti.

30. Department of State IG Report AUD/IQO-09-25, "Audit of the Design and Construction of the New Embassy Compound in Baghdad, Iraq," October 2009, 1-4.

31. Commission hearing, June 6, 2011, transcript, 16.

Poor oversight of diverse services

Poor oversight of services creates different kinds of problems than those that occur in construction.

$2 billion Defense (DLA) fuel supply contract—Huge fuel purchases by the Defense Logistics Agency (DLA) pose a challenge because of their large scale and the role such purchases play in the political dynamics of Central Asia. DLA contracted for fuel supplies at a key air-transport node for Afghanistan in the Kyrgyz Republic. DLA and the American embassy ignored the political risk generated by local perceptions that the contracts abetted corruption under two successive governments.[32]

$189 million State Kabul Embassy security contract—State's oversight efforts over two years did not apply enough pressure to stop the many blatant failings of Armor Group North America, contracted to protect the Kabul embassy. Examples were revealed in a September 2009 Commission hearing.[33]

$92 million USAID bank-supervision mentoring contract—Since 2003, USAID advisers BearingPoint, and later Deloitte, which acquired BearingPoint, provided capacity-building support at the Afghanistan Central Bank. The Central Bank supervised Kabul Bank, then Afghanistan's largest private bank, with supposed assets of $900 million that included a high percentage of worthless loans. USAID believes the advisers had several indications and opportunities to notify the agency, contractors, and other interested parties of fraudulent activities at Kabul Bank during the two years prior to its collapse. Evidence included death threats to the advisers, lack of onsite examinations, and continuous allegations of impropriety at the bank.[34]

USAID staff learned of serious bank problems from reading about them in the *Washington Post*. Deloitte never notified the agency. The USAID inspector general found the oversight by the contracting officer's technical representative to be weak.[35] Subsequently, USAID terminated the contract with Deloitte, but not for default.[36]

Contractors in such a position of trust should know that their duty to warn the government of impending crises overrides most other considerations.

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32. U.S. House Committee on Oversight and Government Reform, Subcommittee on National Security and Foreign Affairs, Majority Staff Report, "Mystery at Manas: Strategic Blind Spots in the Department of Defense's Fuel Contracts in Kyrgyzstan," December 2010, 1.

33. Patrick F. Kennedy, Under Secretary of State for Management, Commission hearing, September 14, 2009, transcript, 36, 43.

34. USAID IG Report F-306-11-003-S, "Review of USAID/Afghanistan's Bank Supervision Assistance Activities and the Kabul Bank Crisis," March 16, 2011, 1.

35. Ibid.

36. Ibid., 4, 10, 13.

Property and safety issues pose challenges for oversight

U.S. policy attaches great importance to property and safety issues. Rules require rigorous control of inventories and protection of government property. Yet in contingencies, the government must entrust large amounts of property to contractors in situations rife with numerous threats to the condition of property and the problem of keeping track of it in a dynamic wartime setting. The Commission has found serious deficiencies in current property handling in Afghanistan, despite some instances of relatively vigorous oversight.

The Commission has found serious deficiencies in current property handling in Afghanistan.

$1.5 billion Defense (Army) LOGCAP IV property management—In July 2009, DynCorp was awarded an Afghanistan task order. DCMA-Afghanistan performed a property-management system analysis of this contract 15 months later and issued a letter of concern in December 2010. Key elements deemed inadequate by DCMA included property management, acquisition, receiving/records management, physical inventories, equipment-utilization reports, and maintenance.[37]

In Iraq, flawed contractor performance in dealing with the billions of dollars in property accumulated during the length of the war and now requiring disposition could have been tracked and perhaps mitigated by DCMA.

$2.9 billion Defense (Army) LOGCAP III property disposition—In Iraq, the Defense IG identified systemic issues concerning the management and disposition of government-furnished property items located at KBR's property yards. The Defense IG estimated that KBR could not account for 3 percent of its government-furnished property, roughly 18,000 line items with a potential value of up to $100 million.[38]

Defense (Army) LOGCAP IV electrical repairs—In Afghanistan, DynCorp was not adequately staffed to make the enormous volume of electrical repairs needed to get buildings ready in a short time. DynCorp categorized repairs as "complete" when the parts were on order but the repairs had not been made. In January 2011, DCMA issued a Letter of Concern to DynCorp. The Commission pursued the matter, and DynCorp gave assurances of correction.[39]

37. DCMA, "Letter of Concern, Contract W52P1J-07-D-0007, Task Order 0004," January 7, 2011.

38. DoD IG Report No. D-2010-088, "Accountability and Disposition of Government Furnished Property in Conjunction with the Iraq Drawdown - Logistics Civil Augmentation Program," September 30, 2010, i, 1.

39. DCMA, "Letter of Concern, Contract W52P1J-07-D-0007, Task Order 0004," January 7, 2011; DynCorp "Response to DCMA 'Letter of Concern, Contract W52P1J-07-D-0007, Task Order 0004,'" January 31, 2011.

Logistics matters of life, health, and safety must receive the highest level of performance management and oversight.

Government oversight was not adequate to deal with the serious risks revealed during the Commission's trip to Spin Boldak, Afghanistan, in March 2011.

$86 million Defense (Army) LOGCAP IV fire protection—The government-owned fire equipment from Iraq was transferred to Afghanistan and arrived in poor condition. Consequently, DynCorp, the LOGCAP IV contractor in Afghanistan, was not provided adequate fire equipment and was at risk of providing inadequate fire protection. The DynCorp-operated fire department at Forward Operating Base Spin Boldak had only 23 firefighters out of 30 authorized and was not equipped with a needed "pumper" fire truck. Instead, the base relied on a limited-capacity pickup truck. Based on equipment status and staffing inadequacies, the DCMA subject-matter expert (SME) rated the contractor's level of performance at 10 percent. The poor condition of the equipment received from Iraq gave the SME great concern about the adequacy of future equipment deliveries throughout southern Afghanistan.

Military interpreter and Afghan contractor discuss a project, Helmand province, Afghanistan. (U.S. Navy photo)

$204 million Defense (Army) LOGCAP III electrical construction and repairs—In January 2008, an Army soldier in Iraq was electrocuted while showering. The Defense IG attributed his death in Iraq to multiple systems and organizational failures on the part of both the U.S. Army and KBR.[40]

DCMA advised KBR of a Level III Corrective Action Request (CAR), DCMA's most stringent criticism reserved for extraordinary contractor failures, identifying serious deficiencies in KBR's inspection system.[41]

KBR's poor rating in this instance lowered the evaluation of its past performance during the "best value" competition for LOGCAP IV task orders in Afghanistan and was a factor in its loss of that award.

40. Department of Defense IG Report, "Review of Electrocution Deaths in Iraq: Part I - Electrocution of Staff Sergeant Ryan D. Maseth, U.S. Army," January 24, 2009, i-iv.

41. DCMA, "Level III Corrective Action Request (CAR) HQ-08-LOGCAP-QA-001-LIII," September 11, 2008, 2.

Contingency-contract fraud undermines defense, diplomatic, and development missions

Fraud associated with federal government contracts in Iraq and Afghanistan has been widespread, especially at the beginning of these conflicts when oversight was weak and internal controls nonexistent.

Fraud includes such activities as bribery, gratuities, kickbacks, and conflicts of interest, as well as false claims and statements, cost/labor mischarging, bid rigging, and undelivered, defective, and counterfeit products. Fraud undermines programs, diverts money, and undermines public confidence in the U.S. government's fiduciary duty to spend taxpayer dollars wisely.

The Commission estimates that 5 percent to 9 percent of the $206 billion in funds spent for contingency contracts and grants has been lost to fraud.

The Commission's estimate of a 5 percent to 9 percent fraud rate would indicate that between $10.3 billion and $18.5 billion of the $206 billion in funds spent for contingency contracts and grants has been lost to fraud. This estimate is consistent with the estimate of the Association of Certified Fraud Examiners, which has reported that 7 percent of commercial revenue is lost to fraud.[42]

Shipping containers, Bagram Airfield, Afghanistan. (Commission photo)

The Defense Criminal Investigative Service (DCIS) has investigated a total of 500 cases involving 1,503 subjects for fraudulent activities associated with overseas contingency operations in Iraq and Afghanistan.

As of June 1, 2011, 251 cases were still open. The table below shows the number of cases related to each type of fraud.

Table 7. Number of open cases by type of fraud

Type of case	Number of open cases
Public corruption	124
Procurement fraud	91
Theft and technology protection	28
Miscellaneous	8
Total open cases	**251**
Percent of total cases still open	51 percent

Source: DCIS Headquarters, OCO-JOC Program, International Operations Directorate Report, "Overseas Contingency Operations (OCO) Monthly Statistics Report," June 1, 2011, 6.

There is a direct relationship between the level of vulnerability to fraud and the phase of war, type of program, and type of contract. For example, contracts supporting large troop movements, programs requiring large cash payments, and poorly written, undefinitized, or poorly supervised cost-reimbursement-type contracts are especially vulnerable.

In Iraq and Afghanistan, bribery and kickbacks are a way of doing business. Despite this, contracting officers must quickly select and manage foreign contractors in Iraq and Afghanistan, many of whom have no prior experience in working for the U.S. government.

Few cases of wartime-contracting fraud are actually prosecuted.

The International Contract Corruption Task Force (ICCTF), which is composed of nine U.S. criminal investigative organizations, told the Commission in June 2011 that its members have opened 876 cases related to wartime contracting. These cases include public corruption, procurement fraud, theft and technology protection, and other categories of fraudulent activities.

The sheer number of contracts for Iraq and Afghanistan points to a high potential for fraud. However, of the 332 cases that the task force reported as being closed, the Department of Justice told the Commission that it charged only 150 individuals and companies. Few cases of wartime-contracting fraud are actually prosecuted. Many of the cases are closed for a variety of reasons including a lack of evidence, the difficulty of investigating them, and the cost of prosecution.

Abuses in contingency contracting undermine the United States' reputation abroad

Contingency-contractor abuse of authority or position involves decisions made for personal financial gain, or gains by an immediate or close family member or business associate. Abuse does not necessarily involve fraud or the violation of law. But trafficking in persons does violate U.S. law and regulations.

U.S. contingency contractors, opportunistic labor brokers, and international criminal organizations have taken advantage of the easy flow of people, money, goods, and services to capitalize on this source of revenue and profit.[43] Their actions bring discredit to the United States and act as a barrier to building good diplomatic relations.

The globalization of the world economy has spurred the movement of people across borders, legally and illegally, especially from poorer countries, to fill low-skill jobs in support of the U.S. contingencies in Iraq and Afghanistan. Exploitation includes forced labor, slavery, and sexual exploitation.[44] Findings from one of the Commission's trips to Iraq in April 2009 include:

- A Ugandan security guard working for Triple Canopy at Forward Operating Base Delta committed suicide by shooting himself in the head. The guards at this base were often ill-equipped and without basic cold-weather gear such as gloves.
- Contractors withheld pay from third-country nationals until their contract term was completed, thereby preventing them from voluntarily returning to their homes of record.

43. Congressional Research Service Report RL34317, "Trafficking in Persons: U.S. Policy and Issues for Congress," August 4, 2010, 9.

44. United Nations Convention against Transnational Organized Crime and the Protocols Thereto, "Annex 11: Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime," Article 3a, 2004.

- Though providing a power generator for guard towers was required in one of the security contracts, there was no requirement to ensure they were operable, and they actually sat idle during the most frigid weather.
- The third-country national guards worked unusually long tours, sometimes 12-hour shifts and 72-hour work weeks.
- The SABRE International prime contractor paid the Ugandan guards an average of $700 per month, but the government paid SABRE $1,700 per month for each guard. This $1,000 difference exceeds even the most generous indirect contract costs.
- SABRE did not provide many of the third-country nationals with the 30-day vacation they were promised. The base-contracting officer's representatives said they had no one with experience to consult on these labor-related matters. There was no community-of-interest on the secure portal where they could communicate, and no recurring telecommunication with the installation-security program stakeholders.

Kabul-to-Kandahar road construction, 2003. (USAID photo)

The Commission learned of a number of other cases of exploitation during a trip to Afghanistan in August 2010:

- Third-country nationals were lured with promises of work in Kuwait at good wages, and upon arrival were routed to Afghanistan and paid wages lower than promised.
- Numerous Philippine nationals arrived at Kandahar Air Field, but only two had jobs lined up. Others stayed on the military base looking for work. The air field commander told the Commission that when he first arrived, "a couple thousand" unauthorized third-country nationals were on base.
- Living conditions were substandard for third-country nationals at Warrior Village at Bagram Air Field.
- Third-country nationals at Forward Operating Base Delaram II complained of poor living conditions and unfair pay provided by DynCorp's subcontractor, Renaissance.

Root causes of contingency-contract waste, fraud, and abuse persist

After 10 years of contingency contracting in Iraq and Afghanistan, the root causes of waste, fraud, and abuse persist. These existed well before the contingency-contracting process began and only worsened as it progressed.

After 10 years of contingency contracting in Iraq and Afghanistan, the root causes of waste, fraud, and abuse persist.

The Commission's observations of the contingency-contracting function revealed significant shortcomings in organizational leadership and alignment, management of human resources, application and enforcement of policies and procedures, management of budgets and resources, and management of knowledge and information.

These interrelated causes of the recurring contingency-contracting problems were discussed in Chapter 2, and will be further developed in Chapters 4, 5, 6, and 7.

Road construction, Kapisa province, Afghanistan. (Defense photo)

Chapter 4

Looming sustainment costs risk massive new waste

Looming sustainment costs risk massive new waste

Withdrawals of U.S. military forces from Iraq and Afghanistan are under way. Without effective action, ending the U.S. military presence and related contracting activities in those countries may reveal massive *new* waste if host nations are unable to operate and maintain projects and programs started and funded by the United States.[1]

The U.S. military presence in Iraq is scheduled to end by December 31, 2011. U.S. troops began leaving Afghanistan in July 2011, the first step in drawing down the surge of 2009. "By 2014," the President has said, "this process of transition will be complete, and the Afghan people will be responsible for their own security."[2]

Enduring costs risk wasting billions of dollars of American taxpayers' money—possibly dwarfing the tens of billions in waste already incurred.

American troops are leaving, but a U.S.-funded presence will linger in both countries in the form of programs, schools, clinics, roads, power plants, barracks, hospitals, irrigation projects, prisons, training centers, and other efforts undertaken through U.S. government contracts. These will remain in Iraq and Afghanistan, as will the armies and national police forces created and supported with U.S. funds, long after U.S. troops and major funding have disappeared.

What will *not* disappear is the cost of sustaining those projects and programs. As the World Bank said of Afghanistan:

> These investments and programs are creating substantial expenditure liabilities for the future—roads will need to be maintained, teachers paid, and the sustaining costs of the Afghan National Army and other security services covered. The same will be true of investment programs in sectors like electric power and irrigation.[3]

1. The Commissioners concluded this emerging threat of waste from unsustainable efforts was serious enough to warrant a special report to Congress. Special Report 5, "Sustainability: hidden costs risk new waste," was issued June 3, 2011. This chapter expands and updates the report.

2. Remarks by President Barack Obama, Washington, D.C., June 22, 2011.

3. The World Bank, Afghanistan Public Finance Management Project, Report No. 34582-AF, "Afghanistan: Managing Public Finances for Development," December 22, 2005, 8.

These enduring costs risk wasting billions of dollars of American taxpayers' money—possibly dwarfing the tens of billions in waste already incurred—if funding from the Iraqi and Afghan governments or the international donor community cannot cover them.

Large cash inflows distort host-nation markets

Another challenge to achieving project and program sustainability is dealing with the legacy of economic distortions induced by massive inflows of cash into a largely agricultural society with an underdeveloped financial infrastructure. In addition to concerns about the impact of particular flows of funds within an economy, difficulties can arise from the economy's overall "absorptive capacity"—its "ability to use additional aid without pronounced inefficiency of public spending and without induced adverse effects."[4]

Street scene, Joykhoja, Afghanistan. (U.S. Air Force photo)

Afghanistan's inflation-adjusted gross domestic product (GDP) grew at a 22.5 percent rate in 2009-2010, the World Bank reports, driven by "the security economy that generates demand for goods and services, equipment and operations and maintenance of the national army, as well as higher spending by donors, and their large off-budget contributions."[5] Such rapid growth, starting from a low base in a country lacking a modern financial and technological infrastructure, inevitably risks creating disruptions and distortions in the economy.

Iraq faces challenges similar to Afghanistan's, but Iraq has a more developed infrastructure, more diversified markets and trade access, and substantial revenue-producing potential from its large oil reserves.

Pouring large sums of money into less-developed economies with limited absorptive capacity creates both short-term and long-lived distortions. As a recent U.S. Senate committee staff report notes, "Foreign aid, when misspent, can fuel corruption, distort labor and goods markets, undermine the host government's ability to exert control over resources, and contribute to insecurity."[6] For example:

4. World Institute for Development Economics Research, Research Paper No. 2006/47, "Absorptive Capacity and Achieving the MDGs [Millennium Development Goals]," May 2006, 1.

5. The World Bank, "Growth in Afghanistan," updated February 2011.

6. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, 2.

- Foreign-funded contractors in urgent need of fuel, concrete, timber, wire, or other goods can bid up prices in local markets, creating hardship for local citizens and firms.
- Competition for skilled local workers can lure people out of Afghan government jobs, companies, or skilled trades, causing staffing and capability shortfalls that can affect normal economic activity and output for years.
- Foreign money flooding into a culture of widespread acceptance of bribes and kickbacks can raise transaction costs and impede competition on merit.

If a host country has limited absorptive capacity, influxes of external aid may reach a point at which the net benefit of additional funds turns *negative* as economic distortions proliferate and grow.[7]

As the Special Inspector General for Iraq Reconstruction testified at the Commission's first hearing:

> Absorptive capacity is a key issue to think about in deciding how much aid to offer. … Iraq did not have the absorptive capacity for $25 [billion] or $18 billion … because as I said, their army was fired, most of the senior government was fired. It was essentially a U.S.-driven endeavor subcontracted out, and that required capacity building, not a focus of the IRRF [the $18 billion Iraq Relief and Reconstruction Fund, created by Congress in 2003] …
>
> How it applies to Afghanistan? Hugely important question, because this is a country that does not have the kind of bureaucracy or operations or resources that Iraq has and, therefore, will have a much more gradual or much lower absorptive capacity.[8]

The Commission sees no indication that Defense, State, and USAID are making adequate plans to ensure that host nations will be able to operate and maintain U.S.-funded projects on their own. Nor are they effectively taking sustainability risks into account when devising new projects or programs.

7. See, for example, Paolo De Renzio, "Increased Aid vs. Absorptive Capacity: Challenges and Opportunities towards 2015," *Institute of Development Studies Bulletin 36.3 (*2005), 20-27.

8. Stuart Bowen, Jr., Special Inspector General for Iraq Reconstruction (SIGIR), Commission hearing, February 2, 2009, transcript, 115.

Afghan men working on USAID canal restoration project, Taktehpol, Afghanistan. (U.S. Air Force photo)

Threats of unsustainability can be hard to assess

Spotting and assessing the threat of waste from an unsustainable project or program is not as simple as examining construction quality, performance of services, schedule compliance, or the accuracy of labor and materials billings. An investment may be carefully planned, well executed, and economical, but still *become* wasteful if the host nation cannot provide trained staff, afford parts or fuel, perform necessary maintenance, or produce intended outcomes.

U.S.-funded contingency operations in Iraq and Afghanistan have presented and will continue to present numerous opportunities for well-conceived and well-executed projects and programs to turn into waste.

- In Iraq, U.S. contractors built and equipped 133 primary health-care centers for about $345 million. The U.S. paid a contractor to operate and repair the facilities for one year, but failed to build the capacity of the Iraqi Ministry of Health to sustain the facilities.
- In Afghanistan, the United States has contracted for schools and clinics that lack adequate personnel, supplies, and security; a large power plant that the host country cannot maintain or operate unassisted; roads that will need substantial and continuing maintenance; and security-force training and support whose costs exceed Afghan funding capabilities.

The threat of billions of dollars in new waste through unsustainability stems from, among other things:

- inadequate assessment of host-country needs and capabilities,
- overly ambitious or inappropriate plans,
- contractors' inability or willful failure to perform,
- projects selected for political/military impact rather than for long-term feasibility,
- weak interagency coordination for including multi-national partners,
- poor planning and weak coordination for transition hand-off, and
- inadequate follow-through by federal officials.

The threat of waste stems from failure to apply realistic analysis and effective acquisition discipline in the stress of a contingency setting.

In short, the threat of waste stems from failure to apply realistic analysis and effective acquisition discipline in the stress of a contingency setting.

In overseas contingencies that require funding for contracts, planning for projects and programs must take into account the host country's technical and financial capabilities to operate and maintain them once international donors' support is gone. Failure to do so not only wastes U.S. taxpayers' funds, but undermines local-government credibility and impedes progress in reconstruction and stabilization.

Iraq faces unsustainability issues

The United States has committed more than $60 billion to reconstruction activities in Iraq since 2003—an average of $17 million a day.[9] Projects range from universities to rural health clinics, and from rule-of-law programs to training Iraqi security forces.

Iraqis face a major transition after 2011, when (barring any changes in the U.S.-Iraqi arrangements) only a limited number of U.S. military advisers will remain in the country, and the U.S. Department of State will take over from the Department of Defense as the most conspicuous American presence. Iraqis will also face the challenge of paying for the operation and maintenance of many hundreds of projects and facilities launched with U.S. funding—sometimes against their wishes.

9. SIGIR Quarterly Report to the United States Congress, April 30, 2011, 3.

In June 2006, the U.S. government terminated for default a contract with Parsons Delaware, Inc. to build the Kahn Bani Sa'ad Correctional Facility in Diyala Province, Iraq, northeast of Baghdad. After awarding three additional contracts to complete the prison, the U.S. government cited security concerns and terminated all remaining work in June 2007, leaving more than $1.2 million in materials on site.[10]

Kahn Bani Sa'ad Correctional Facility, Iraq, at the time of Parsons' termination, 2006. (U.S. Army Corps of Engineers photo)

The United States unilaterally transferred the Kahn Bani Sa'ad Correctional Facility to the government of Iraq on August 1, 2007, even though that country's Ministry of Justice had made clear it had no intention of completing, occupying, or securing the $40 million project, which was still unfinished and had major construction deficiencies documented by the U.S. Army Corps of Engineers.[11]

The prison project, intended to house 3,600 inmates, remains unused and unsecured. It is perhaps the ultimate instance of unsustainability: a project that not only might be unusable or unsustainable by the host government, but one that the host government didn't even *want*.

In another example, the Iraqi government has sought American technical and financial assistance for the $277 million, U.S.-funded Nassiriya water-treatment plant, which was built without an assured source of electric power, is frequently off-line, and produces murky water that many locals refuse to use. A Special Inspector General for Iraq Reconstruction (SIGIR) report noted, "Dissatisfaction with the quality of the water of the Nassiriya WTP is so profound that only 14 percent use it as their main source of drinking water; the remaining 86 percent either purchase water or use water from rivers and streams."[12]

The Nassiriya water-treatment plant, Iraq, 2007. (U.S. Army Corps of Engineers photo)

Considering that the Nassiriya plant is the largest single U.S.-funded reconstruction project in Iraq, and that its goals included

10. SIGIR Audit Report PA-08-138, "Kahn Bani Sa'ad Correctional Facility, Kahn Bani Sa'ad, Iraq," July 25, 2008, i.

11. Ibid., ii.

12. SIGIR Review EV-1002, "Review of Major U.S. Government Infrastructure Projects in Iraq: Nassiriya and Ifraz Water Treatment Plants," October 28, 2010, i.

improving public health, building Iraqis' confidence in their government, and supporting U.S. counter-insurgency efforts, this outcome is a major disappointment. The decidedly mixed results rest on causes that include sustainability issues:

> A SIGIR inspection cited the inability of the GOI [Government of Iraq] to provide reliable power, improve the old distribution network, remove illegal taps in the transmission line, and provide a qualified and motivated staff to attend O&M [operations and maintenance] training as the main reasons for the water system's poor overall performance.[13]

On a smaller scale, the story of a $1 million attempt to provide a water park for the citizens of Baghdad again illustrates the threat of waste from unsustainability. In early 2008, a U.S. Army general ordered an empty lagoon to be refilled and turned into a water park using money from the Commander's Emergency Response Program (CERP). New pumps were installed and new amenities put in place. The park drew large crowds at first, but the local power supply fell off, the pumps stopped working, and required maintenance was not performed.

Park managers refused to commit to keeping the facility operational. As of early 2011, more than two years after the park's opening ceremony, "the Baghdad park is nearly waterless … Much of the compound is in ruins, swing sets have become piles of twisted steel, and the personal watercrafts' engines have been gutted for spare parts."[14]

Finally, lack of host-country commitment threatens the future of the Iraqi International Academy, a $26 million-contract project led by U.S. Forces-Iraq. The Academy, under construction on a site near Baghdad's International Zone, is intended to train Iraqi security forces and officials in English and other subjects, and to function as a "regional center of excellence" offering instruction in international relations, public administration, and related topics.[15]

The Academy is due to be turned over to the Government of Iraq upon completion (scheduled for September 2011), but the SIGIR has reported that the Iraqi government "has no plan to fund the operation of the [Academy]," and that an

13. Ibid., 16.

14. "Demise of Iraqi water park illustrates limitations, abuse of U.S. funding program," *The Washington Post*, January 3, 2011.

15. SIGIR letter to Commander, U.S. Central Command, SIGIR 11-009, "Iraqi Government Support for the Iraq International Academy," January 26, 2011, 1.

Iraqi Ministry of Defense official "simply assumed the United States would fund the operation ... for at least a year."[16]

Providing additional examples would simply belabor a hard truth: the threat of major waste in Iraq is daunting. But circumstances in Afghanistan make the risk of emerging, enormous new waste there especially severe.

Sustainment challenges in Afghanistan are daunting

A prime example of unsustainability stands in Kabul, Afghanistan. American taxpayers' dollars paid for building the $300 million Tarakhil Power Plant, also known as the Kabul Power Plant. The plant is completed. But it is seldom used, and the cost to operate and maintain it is too great for the Afghan government to sustain from its own resources.

Kabul Power Plant, Afghanistan, 2010. (SIGAR photo)

USAID, having agreed to support U.S. political and military objectives, awarded contracts to build the plant so that reliable electric power could promote economic growth and improve the quality of life in the Kabul area. The Afghan government committed in April 2007 to pay for the plant's fuel and operating costs starting a year after its completion, but later advised that it could not afford fuel and would need assistance with operating costs.[17]

By November 2009, however, an audit by USAID's inspector general found:

> The host government may not be able to afford to operate the Kabul power plant once it is completed. Specifically, the host government may not be able to meet its commitment to pay for diesel fuel to operate the plant because of the rising cost of diesel fuel and the government's inability to collect revenue for the generated electricity.[18]

Part of the problem was that the plant was designed as dual-fueled, able to burn either diesel or heavy fuel oil. But diesel fuel is very costly in Afghanistan, while

16. Ibid., 4.

17. SIGAR Audit Report 10-6, "Contract Delays Led to Cost Overruns for the Kabul Power Plant and Sustainability Remains a Key Challenge," January 20, 2010, 10-11; USAID IG Audit Report 5-306-10-002-P, "Audit of USAID/Afghanistan's Power Sector Activities under its Afghanistan Infrastructure Rehabilitation Program," November 10, 2009, 14.

18. USAID IG Report 5-306-10-002, "Audit of USAID/Afghanistan's Power Sector Activities under its Afghanistan Infrastructure Rehabilitation Program," November 10, 2009, 2.

using the alternative heavy fuel oil entails greater wear and tear on the generators. Further, the dual-fuel technology itself complicates maintenance.

Meanwhile, the Afghan government negotiated electricity purchases from neighboring Uzbekistan at a fraction of the cost of Tarakhil energy. The unsustainable Tarakhil Power Plant, intended as a reliable, round-the-clock facility, will instead serve as a costly peaking or back-up facility—and as a textbook case of poor planning and waste.[19]

A 2011 USAID contract to build a diesel-fueled power plant in Kandahar faces similar sustainability challenges, even if it promotes geopolitical and military stabilization objectives. In addition, financing plans have not been made for the transmission-and-distribution grid that would make the plant a useful source of energy. Power-plant sustainability challenges in Afghanistan include not only the challenge of the Afghan government's ability to pay for fuel, operations, and maintenance, but the more fundamental difficulties that it faces in collecting payments from customers and finding technically competent staff.[20]

A huge generator transported in pieces through a bitter firefight with insurgents remains unassembled and rusting, partly because the concrete needed for its foundation was never delivered.

A different USAID-funded project to upgrade the Kajaki Dam on the Helmand River is years behind schedule. A huge generator transported in pieces through a bitter firefight with insurgents remains unassembled and rusting, partly because the concrete needed for its foundation was never delivered. In addition, completing the power-plant upgrade will require modernizing the local transmission-and-distribution system. Here again is a project that will require large outlays to complete, operate, and maintain.

As a Special Inspector General for Afghanistan Reconstruction report warns:

> Years of neglect cannot be overcome until the Afghanistan government has the capability to recover costs, expand its capabilities, and conduct operations and maintenance of the energy sector. Until that time, Afghanistan will continue to rely

19. SIGAR Audit Report 10-6, "Contract Delays led to Cost Overrun for the Kabul Power Plant and Sustainability remains a Key Challenge," January 20, 2010, note 5, 2. Note: As criticism of the project has grown, some U.S. officials have claimed the plant was intended only as a back-up or peaking facility. However, the Afghanistan Infrastructure and Rehabilitation Program website, which carries a copyright notice for contractors Black & Veatch and Louis Berger Group as well as a note about USAID support, contains a legacy page as of mid-July 2011 saying, "Upon completion, the 100 MW power plant will provide the people of Kabul with reliable, sustainable power"—not a characterization one would expect to be made for a peaking plant. Additionally, the SIGAR report stated at page 2, note 5, "USAID officials noted that the Kabul Power Plant will be used sparingly when cheaper sources of power are available, while potentially running 24 hours a day, seven days a week when lower cost options are not available (for example, during the winter months when water levels are low and hydro electric power is less plentiful)"—that is, it would be a base-load plant for months at a time.

20. SIGAR Audit Report 10-4, "Afghanistan Energy Supply Has Increased but An Updated Master Plan Is Needed and Delays and Sustainability Concerns Remain," January 15, 2010, 2-5.

heavily on donor funds in order to ensure that investments do not fall to waste.[21]

The Afghan security force is undermined by financial insecurity

Another formidable example of potential waste is the U.S.-funded contracting for training of, and facilities construction for, the Afghan National Security Forces (ANSF), comprising the Army, Border Police, and National Police.

Between FY 2006 and FY 2011, Congress appropriated nearly $39 billion to set up and maintain the ANSF; the fiscal year 2012 budget request would add almost $13 billion to that total. Nearly half of the FY 2012 request—over $5 billion—would go toward clothing, equipping, and paying the ANSF.[22]

Prospects for the Afghan government's sustaining the ANSF are dubious. The entire country's gross domestic product (GDP) for FY 2011 is about $16 billion at the official exchange rate, and the national government's domestic revenues are about $2 billion.[23] The Afghan Ministry of Finance budget proposal for 2011-2012 indicates that given the increased security costs from the increase in size of the ANSF, the Afghan government is expected to continue to depend on donor grants for up to 30% of its operating budget.[24]

DynCorp trainer with Afghan National Police recruits. (U.S. Air Force photo)

The outlook for sustaining the Afghan army and national police is complicated by several factors:

- The ANSF, currently numbering about 305,000 personnel, is growing toward a newly authorized strength of 352,000, which will increase sustainment costs.

21. Ibid., 16.

22. Office of the Secretary of Defense, "DoD Budget for FY 2012: Justification for FY 2012 Overseas Contingency Operations Afghanistan Security Forces Fund (ASFF)," February 2011, 2.

23. Islamic Republic of Afghanistan, Ministry of Finance, "1390 National Budget Statement Draft" [1390 is the solar Islamic calendar equivalent of years 2011-2012 in the Gregorian calendar], February 2011, 2.

24. Ibid.

- The Commission has received a preliminary U.S. military estimate of ANSF sustainment costs for just the period 2014-2017 in the neighborhood of $30 billion.
- The International Monetary Fund has concluded that the Afghan government will be incapable of paying ANSF costs until at least 2023.[25]
- Donor-community support depends upon unpredictable political decisions that may be heavily influenced by severe fiscal pressure on most developed countries' budgets.

Afghan girl asking for food, Kandahar province, Afghanistan. (U.S. Army photo)

Meanwhile, Afghanistan's potential to bolster its own revenues in the near future suffers from the facts that Afghanistan:

- is one of the world's most underdeveloped countries, with a per capita gross domestic product (GDP) of about $900, a 70 percent illiteracy rate, and an average life expectancy of 45 years;[26]
- lacks the petroleum and natural-gas riches of Iraq; and
- is building from a dismal baseline of no effective central government, no basic public services, no developed financial system, and no consistent rule of law.

Senior U.S. officials have publicly acknowledged that Afghanistan cannot sustain its own security budget. Then-Secretary of Defense Robert Gates said in February 2011:

> Let's not kid ourselves. We are the only ones paying for this in any significant way. How long can we sustain it? The Afghan ability to sustain a force would be a fraction of what they already have.[27]

25. International Monetary Fund, *Islamic Republic of Afghanistan: Sixth Review Under the Arrangement Under the Poverty Reduction and Growth Facility, Request for Waiver of Nonobservance of a Performance Criterion, Modification and Performance Criteria, and Rephasing and Extension of the Arrangement,* Country Report No. 10/22: January 2010, 11.

26. Central Intelligence Agency, "World Factbook for Afghanistan," 2010.

27. American Forces Press Service (DoD), "Gates: U.S. Must Consider Sustainability of Afghan Forces," February 17, 2011.

In a similar vein, the Acting Special Inspector General for Afghanistan Reconstruction told the Commission, "The Government of Afghanistan has never had the financial resources to sustain ANP [Afghan National Police] salaries at either the current or projected levels."[28]

> "The Government of Afghanistan has never had the financial resources to sustain ANP [Afghan National Police] salaries at either the current or projected levels."
>
> — SIGAR

Besides spending billions on contracts to train, clothe, and equip the ANSF, the United States has also committed $11.4 billion since 2005 to build bases, police stations, border outposts, and other facilities for the ANSF. In addition, the U.S. Army Corps of Engineers awarded two contracts in 2010 for ITT Corporation to provide $800 million in operation-and-maintenance services for 663 ANSF facilities over a five-year period.

The Afghan government has already indicated that it cannot pay such costs from its resources.[29] The Special Inspector General for Afghanistan Reconstruction told the Commission at its January 24, 2011, construction hearing that "the entire $11.4 billion [in construction spending] is at risk," and "both contracts are expected to exhaust their funding well before [the end of] their five-year performance period."[30]

Examples can only hint at potential unsustainability waste

Because some threats of waste through sustainability have not yet risen to detectable levels, there can be no complete tally at this time. But the variety and impact of unsustainability risks can be inferred from examples such as these:

- Funding outside of the Afghan government's control, including 16,000 Commander's Emergency Response Program (CERP) projects totaling $2 billion from the U.S. military, has created thousands of projects that lack plans for sustaining them.[31] CERP project files often lack required letters committing local officials to funding, and officials often cannot collect the taxes needed to meet their commitments.

28. Herbert Richardson, Acting Special Inspector General for Afghanistan Reconstruction (SIGAR), statement, Commission hearing, April 25, 2011, 4.

29. SIGAR Audit Report 11-6, "Inadequate Planning for ANSF Facilities Increases Risks for $11.4 Billion Program," January 27, 2011, 9.

30. Herbert Richardson, Acting Special Inspector General for Afghanistan Reconstruction, (SIGAR), statement, Commission hearing, April 25, 2011, 5.

31. SIGAR Audit Report 11-7, "Commander's Emergency Response Program in Laghman Province Provided Some Benefits, but Oversight Weaknesses and Sustainment Concerns Led to Questionable Outcomes and Potential Waste," January 27, 2011.

- Over the past five years, the State Department has spent about $2 billion on counter-narcotics programs in Afghanistan, including support for two compounds near the Kabul airport and in Kunduz province. The U.S. objective is to transfer the compounds to the Afghan government, but State's Inspector General says the department "has not addressed how and when the Afghan Government will be able to assume control and sustain day-to-day operations."[32]

Without immediate and effective attention to these and other sustainability problems, the United States faces a vast new toll of waste in Iraq and Afghanistan. Beyond the potential direct waste of U.S. taxpayers' money lie both the opportunity cost of the foregone projects that might otherwise have been completed with the funds and the political cost to U.S. interests if local nationals feel betrayal or resentment when promised improvements to their lives do not materialize.

Counternarcotics operation, Zabul province, Afghanistan, 2010. (U.S. Navy photo)

A recent congressional staff review summarized the imperative for change after a review of Afghan projects and programs, but its advice could apply anywhere that U.S.-funded contingency projects are to be taken over by a host government: "We should follow a simple rule: *Donors should not implement projects if Afghans cannot sustain them.*"[33]

The only alternatives to making effective plans for sustainment with the host government are to abandon projects in part or whole, or to continue tapping U.S. taxpayers for an indefinite future—a course that may simply postpone abandonment if budget stress and voter discontent snap the checkbook shut.

32. State IG Audit Report MERO-I-11-02, "Performance Evaluation of PAE Operations and Maintenance Support for the Bureau of International Narcotics and Law Enforcement Affairs' Counternarcotics Compounds in Afghanistan," February 2011, 7.

33. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, 4-5.

Avoiding or mitigating such waste requires prompt and effective measures.

► RECOMMENDATION 5

Take actions to mitigate the threat of additional waste from unsustainability

Officials at Defense, State, and USAID should:

- examine both completed and current projects for risk of sustainment failure and take appropriate action to cancel or redesign programs and projects that have no credible prospect of being sustained;
- ensure that any new requirements and acquisition strategies for contingency contracts for projects or services to be handed over to a host nation include a detailed assessment of long-term costs and of host nations' ability and willingness to meet those costs; and
- report to Congress, by December 31, 2011, and annually thereafter, their analysis and proposed actions for mitigating sustainability risks.

Al Fatah Bridge, with oil pipeline, after insurgent attack, Iraq , 2006. (U.S. Army photo)

Chapter 5

Agencies have not institutionalized acquisition as a core function

Agencies have not institutionalized acquisition as a core function

The Commission's second interim report to Congress, "At what risk? Correcting over-reliance on contractors in contingency operations," argued for changes in how the U.S. government organizes, plans, trains for, and executes contractor support for contingency operations. The report cited the Defense policy that contractors are an integral part of the total force and emphasized that the country cannot undertake large and sustained contingency operations without contractor support.

The number of contractors has grown faster than the government's ability to effectively manage and oversee them and their contracts. The government's ad hoc response to the expansion of contracting is ineffective, and agency leaders have not recognized the extent of the problem. While noting that some initiatives for improvement are under way, the Commission warned of shortfalls in policy, doctrine, resources, planning, and training the federal workforce in ways appropriate for supporting contingencies.

The government's ad hoc response to the expansion of contracting is ineffective, and agency leaders have not recognized the extent of the problem.

Agencies must fully accept contracting as a core function if only because of the sheer numbers of contingency contracts, their value, and the adverse financial, political, and operational impacts of failure.

Acquisition organizations and independent observers have long recognized that while contracting has grown in importance, agencies have not taken the steps needed to elevate contracting internally.[1] The Commission has found that agencies engaged in contingency contracting are not organized to promote cross-agency communication, to accommodate contractor support in strategic and operational force planning and preparation, to foster cost-consciousness, or to address acquisition issues and challenges at the highest leadership levels.

Many military and civilian acquisition professionals believe that significant benefits would accrue if a committed and centralized leadership were to provide effective

1. Defense Science Board Task Force, "Improvements To Services Contracting," March 2011, 9; Commission on Army Acquisition and Program Management in Expeditionary Operations, "Urgent Reform Required: Army Expeditionary Contracting," October 21, 2007, 21-22, 29, 47; Center for a New American Security, "Contracting in Conflicts: The Path to Reform," June 2010, 20-21.

guidance and support for contingency contracting. As a senior combatant command logistics (J4) director told the Commission, "I would like … contracting to be a separate directorate. … Two CENTCOM planners are not enough. … They are flying the airplane as they build it."

The Commission's interim report called for contingency contracting to be designated as a core function because:

- Policy and doctrinal issues on when and where, and questions of how to use contractors extend beyond individual contingencies and must be considered holistically, because they cut across agency missions.
- Advanced and continuous acquisition planning will lead to efficiencies.
- Restructuring within each agency involved is needed to develop an acquisition workforce that is ready for and responsive to contingencies when they occur.

Agencies engaged in contingency contracting are not organized to promote cross-agency communication, to accommodate contractor support in strategic and operational force planning and preparation, to foster cost-consciousness, or to address acquisition issues and challenges at the highest leadership levels.

The Commission's recommendations for addressing these problems would elevate the role of contingency contracting within Defense, State, and USAID, thus recognizing acquisition as a strategic element and giving contracting a seat at the table. For Defense, the report called for elevating contracting from a subordinate role within the Joint Staff's logistics directorate (J4) by establishing a J10 directorate. This would raise contingency contracting to the level of other Joint Staff functions like intelligence, plans, and operations.

Since the Commission's February 2011 interim report, numerous agency and military leaders have acknowledged that organizational changes are needed.[2] Yet agency leaders have not yet taken steps to address cultural changes needed at their agencies.

This is where leadership is required and bureaucracy must step aside.

2. Robert M. Gates, Secretary of Defense, Senate Committee on Armed Services hearing, January 27, 2009, transcript, 10-11; Patrick F. Kennedy, Under Secretary of State for Management, statement, Commission hearing, June 6, 2011, 4-7; Dr. Rajiv Shah, Administrator, United States Agency for International Development, Senate Committee on Foreign Relations hearing, April 13, 2011; Dr. Ashton B. Carter, Under Secretary of Defense for Acquisition, Technology and Logistics, Commission hearing, March 28, 2011.

The need for cultural change

To effect cultural change within an organization, leaders must accept and promote it. To achieve cultural change in acquisition, leadership must recognize that acquisition is no longer merely a support function, then communicate the importance of acquisition as essential to the agency's mission. Then concrete steps must be taken to institutionalize the change throughout.

To achieve cultural change in acquisition, leadership must recognize that acquisition is no longer merely a support function, then communicate the importance of acquisition as essential to the agency's mission.

Cultural change affecting acquisition is needed at the strategic and operational levels of Defense, State, and USAID. The outcomes of contracts depend not only on contractors' performance, but also on the government officials who establish requirements, write and award the contracts, and administer them while overseeing performance. Assigning responsibility, allocating resources, and demanding accountability are all critical tools for ensuring cultural change.

Urgent needs and an inadequate number of agency contracting personnel create pressure to operate without specific contract requirements. Failure to provide clear requirements, including requirements that are based on evaluation of program or project sustainability, can invite wasted effort and frustrate imposing accountability.

Prison planning, Paktia, Afghanistan. (Defense photo)

The past decade has demonstrated that failure to recognize the importance of acquisition and failure to elevate it within each agency perpetuates poor planning, aggravates the shortage of trained professionals, and contributes to runaway costs through inattention and poor and inconsistent decision making.

Agencies do not adequately plan for operational contract support

More than two decades of budgetary pressure have left Defense, State, and USAID with reduced capabilities to manage and oversee contracts even as their missions and contract workload have grown. Many related duties and responsibilities were

contracted out. But the increase in services contracting was not accompanied by proportional growth in government's oversight and management capability.

Decisions to surge military personnel in Iraq and Afghanistan were made with little consideration for the extent of contractor support that would be needed. Field commanders were unprepared to provide adequate housing and workspace to the growing contractor workforce. Diplomatic missions lost programmatic control of major projects.[3] Camp "mayors" who administer bases struggled to accommodate contractors' needs for space, energy, and communications, and balance them with military requirements.[4]

Services contracting is not seen as an attractive career for advancement to senior levels

Acquiring services dominates agencies' contingency contracting. More than half of the Defense Department's annual contract expenditure is for services contracts.[5] For the contingencies in Iraq and Afghanistan, services contracts accounted for 66 percent of total contract value awarded since FY 2010. The corresponding FY 2010 proportions of services in total contracting were 94 percent for State and over 99 percent for USAID.[6] These high proportions underscore the importance of attending to the special challenges of managing services contracts.

Services contracting is different from weapon systems contracting.

Services contracting is different from weapon systems contracting. Yet agencies act as though nuanced skills, tradecraft, and professional experience are not needed for services contracting. Agencies provide avenues of career progression for personnel engaged in weapon-systems programs. They have not, however, emphasized the importance of services contracting by providing focused training, education, and on-the-job opportunities that would prepare contracting officers for the complex and large-scale services contracts they will encounter during a contingency.

Another difference is that weapon-systems contracting has a well-established and clearly defined management structure with program offices, milestones, and defined decision points. Services-contracting offices have not been structured and managed in the same fashion. After the Commission's April 19, 2010, hearing on

3. William J. McGlynn, Principal Deputy Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, statement, Commission hearing, January 24, 2011.

4. In its interim report, the Commission recommended that the Army's Installation Management Command manage bases and base-support contractors in contingencies.

5. Defense Science Board Task Force, "Improvements to Services Contracting," March 2011, vii.

6. Commission analysis of FPDS-NG data as of June 12, 2011.

this subject, the Office of the Secretary of Defense and the Army began standing up program offices for service contracts, as the Air Force had done earlier.

Many in-theater contract management roles for military and civilian personnel during contingencies are temporary or transitory assignments. In Iraq and Afghanistan, agencies rely on emergency funds to hire temporary personnel and make temporary assignments to fill staffing gaps. This is neither a long-term nor sustainable solution: it does not allow for having permanent government staff on hand to manage and oversee contractors and contracts prior to, during, and following a contingency.

Now that contractors have become a key component of U.S. military and diplomatic strategies, cultural change is needed at the core of government planning for and execution of a contingency operation.

Short deployment cycles in theater also put military and civil-service contract managers at a disadvantage vis-à-vis contractors, who are likely to have more continuity of knowledge of contracts and programs.

Insufficient training and lack of program management in services contracting, coupled with short personnel-assignment cycle times, leads to inconsistency in managing programs and administering contracts. This also creates a high risk of mismanaging funds and failing to meet program requirements.

There is no focus on the cost of requirements in a contingency

"Mission needs" too often trump consideration of cost consciousness, practical evaluation of project necessity and sustainability, or attention to long-term project and program investment. Opportunities for waste thereby increase. For example, in Operation Iraqi Freedom, launched in 2003, significant waste was caused by a large number of undefinitized contracts, the slow transition from LOGCAP III to LOGCAP IV, lack of adequate preparation for the Restore Iraqi Oil (RIO) program, difficulties in training Iraqi security forces, and problems in other large reconstruction projects.[7]

7. SIGIR, "Hard Lessons: the Iraq reconstruction experience," February 2009, 137-138, 175; Lt. Gen. James Pillsbury, Army Materiel Command Deputy Commander, Commission hearing, March 29, 2010, transcript, 58.

Department of Defense and Joint Chiefs of Staff

In the 2010 Quadrennial Defense Review (QDR), Defense reported that the number of its acquisition professionals had declined by 10 percent over the previous decade, while contractual obligations had tripled. The QDR added, "To operate effectively, the acquisition system must be supported by an appropriately sized cadre of acquisition professionals with the right skills and training to successfully perform their jobs," and promised that Defense will "increase the number of acquisition personnel by 20,000 positions by 2015."[8]

The placement of contracting within J4 reflects outdated thinking that contracting is only a method to achieve logistical support—not a full spectrum of operational contract support.

The Commission endorses this contemplated increase—currently threatened by budget pressures—and believes Defense must commit resources to ensure that sufficient services-acquisition personnel are available to meet contingency-contracting needs.

In its second interim report, the Commission recommended that a contingency-contracting directorate be established in the Joint Staff. This would elevate the critical role of contingency contracting by establishing a new J10 directorate, led by a flag officer with the contracting experience and training necessary to promote better visibility, planning, and coordination of operational contractor support issues.

Soldiers with contractors, Zabul province, Afghanistan. (U.S. Air Force photo)

Defense awards contingency contracts for intelligence support, translation services, communications, construction, security, training, and other non-logistics services. The placement of contracting within J4 reflects outdated thinking that contracting is only a method to achieve logistical support—not a full spectrum of operational contract support. And too many logistics officers who rise to flag rank lack contracting experience and are unfamiliar with the broad range of roles

8. Department of Defense, "Quadrennial Defense Review Report," February 2010, 76.

contractors play in supporting military operations. Contracting should no longer be subordinate to logistics.

In response to the J10 recommendation, the Joint Staff said it does not believe that a new organizational construct would enhance the current effort to institutionalize operational contract support (OCS), and that command and control is strengthened by using established, well-understood staff structures. Further, the Joint Staff said, the current effort to reduce manpower, including flag officers, makes it infeasible to add new structure and a flag officer to the Joint Staff.

A Defense Department analysis identifying operational contract support issues listed a number of factors that impede institutionalizing OCS, including:

- insufficient awareness and appreciation for the potential significance and complexity of OCS;
- inability to fully integrate OCS into task planning, operational assessments, force development, training, readiness reporting, and lessons learned; and
- lack of leadership oversight and awareness to address issues surrounding risks and opportunities, resources, communications, transitions, and issues that arise between contingencies.

The size of the contractor force—more than one-half of our total force in theater—requires leadership, planning, and training beyond a J4 logistics focus.

To correct these deficiencies, the director of the Joint Staff issued a memo directing staff to take specific steps to integrate and coordinate operational contract support and the Civilian Expeditionary Workforce program within the Joint Staff.[9] Yet, these steps are not sufficient. The importance of contracting to Defense and the sheer number and dollar value of contracts underscore the need to formally elevate contracting to a J10 directorate within the Joint Staff from which similar positions would "flow down" to the combatant commands and the military services. Operational dependence upon contractors demands more than an ad hoc response. The size of the contractor force—more than one-half of our total force in theater—requires leadership, planning, and training beyond a J4 logistics focus.

9. Office of the Chairman, Joint Chiefs of Staff, memorandum, "Implementation of SecDef Memorandum on Strategic and Operational Planning for Operational Contract Support (OCS) and Workforce Mix," June 1, 2011.

The combatant commanders are understaffed and not organized to follow up and maintain the changes in the new OCS doctrine and incorporate them into planning. Currently, U.S. Pacific Command has no dedicated staff for operational contract support; it uses three logistics officers assigned part-time. U.S. Southern Command has assigned responsibility for the doctrine to three civilian staff in its finance group (J8). In U.S. African Command, two officers are assigned part-time, but are frequently unavailable due to deployments. And U.S. Central Command, which has arguably the largest and most pressing need, has only five personnel assigned within its J4 contracting staff.

The Joint Staff's effort to institutionalize operational contract support would be greatly enhanced by a dedicated directorate.

Clearly, there is a disconnect between realizing the importance of contracting in operations and taking concrete steps to integrate contracting into contingency planning.

As the Joint Staff works through and implements changes in support of future priorities (such as reallocating flag officers and eliminating the J6 directorate), now is the time to institutionalize progress made in operational contract support and enhance the importance given to contingency contracting.

The J10 directorate proposed by the Commission would give contracting visibility in discussions on the future, developing doctrine and policy, reviewing planning and training, and coordinating plans. Creating a J10 position would prompt "flow down" establishment of similar positions at the combatant commands and the military services with a "G10" (or equivalents) at operational headquarters. Acquisition planning, control, and execution would be firmly institutionalized within Defense and would open the door to contractors becoming truly and fully a part of the total force—more than two decades after that policy was announced.

Afghan men working on USAID canal restoration project, Taktehpol, Afghanistan. (U.S. Air Force photo)

Without institutionalizing a J10 directorate within the Joint Staff and establishing similar staff positions within combatant commands and military services, changes made for contingency contracting risk being ephemeral and subject to budget reductions as in the past. The Joint Staff's effort to institutionalize operational contract support would be greatly enhanced by a dedicated directorate which, with similar acquisition directorates, would coordinate through the services and unified commands at all levels.

Department of State

In its 2010 Quadrennial Diplomacy and Development Review (QDDR), State recognized a need for change, noting that contracting for both State and USAID has expanded while staffing levels stagnated: "These dual trends have resulted in reliance on fewer, larger awards that cover a broad range of activities, with less oversight."[10]

State's Under Secretary for Management testified at a Commission hearing that the department has made numerous changes in:

- contract management;
- the number of acquisition professionals, which has increased; and
- incorporating lessons learned into growing and evolving missions in Iraq and Afghanistan.[11]

The changes at State are welcome, but as at Defense, they do not go far enough in addressing the structural deficit within the executive management structure.

In a response to the Commission's recommendation to establish an office of contingency contracting, the Under Secretary of State for Management said the award from Washington, D.C., of "master contracts" for services with subsequent task orders for specific contingencies is a more efficient and responsive method to address the department's needs when responding to a contingency.

State has experienced significant problems with contingency-contract waste in both Iraq and Afghanistan in areas such as police training, construction of the new embassy compound in Baghdad, and the Pol-i-Charkhi prison in Kabul.

In its second interim report, the Commission recommended establishing offices of contingency contracting at Defense, State, and USAID, and appointing senior-level officials to facilitate planning, preparedness, and resource allocation. These individuals would also be the focal point for interagency communications and coordinate contracting during contingencies.

10. Department of State, "Leading Through Civilian Power: The First Quadrennial Diplomacy and Development Review," December 15, 2010, 180-181.

11. Patrick F. Kennedy, Under Secretary of State for Management, Commission hearing, June 6, 2011.

State disagreed with the recommendation, saying that its centralized structure for acquisition is the most effective and efficient model and that a separate office for contingency contracting is not needed. In State's current configuration, the operational acquisition function reports to a Deputy Assistant Secretary, while the Chief Acquisition Officer (CAO) is an Assistant Secretary of State.

State views establishing a cadre of contracting personnel with experience in contingency contracting as inefficient and unnecessary. The department told the Commission that it can fund a surge capacity to dedicate resources to specific contingency operations. State also said training specifically for contingency contracting is unnecessary, as it can assign unique training requirements to adapt to new needs.

A telling marker of the status of acquisition at the State Department is that of approximately 200 Senior Executive Service and senior Foreign Service Officers under the authority of the Under Secretary for Management authority, only two are acquisition professionals.

The Commission notes, however, that State has experienced significant problems with contingency-contract waste in both Iraq and Afghanistan in areas such as police training, construction of the new embassy compound in Baghdad, and the Pol-i-Charkhi prison in Kabul.[12] And in July 2011, Defense recommended that State's contracting officer's technical representatives (COTRs) receive additional training prior to transitioning contracts in Iraq.[13] These are not reassuring signs that a robust and effective capability to deal with contingency-support needs is in place at State.

While centralized contracting may be a workable organizational structure for State, the Commission believes the department is not set up in a way that reflects the importance of contracting to State's mission. Operational acquisition is buried within the department as part of logistics management within the Bureau of Administration. Operational acquisition is four levels below the Secretary of State—an outdated construct if contracting has truly become a mission enabler and is indeed a core function.

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12. William J. McGlynn, Principal Deputy Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, statement, Commission hearing, January 24, 2011; Joint Audit by the Inspectors General of Department of State and Department of Defense, DoD Report No. D2001-080 and DoS Report No. AUD/CG-11-30, "DoD and DoS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program," July 7, 2011, I; Department of State IG Report No. AUD/IQO-09-25, "Audit of the Design and Construction of the New Embassy Compound in Baghdad, Iraq," October 2009, 1-4.

13. Defense Procurement and Acquisition Policy, memorandum, "Contracting Officer's Representative Designation – Iraq," July 11, 2011.

A telling marker of the status of acquisition at the department is that of approximately 200 Senior Executive Service and senior Foreign Service Officers under the authority of the Under Secretary for Management authority, only *two* are acquisition professionals.[14]

U.S. Agency for International Development

USAID has made procurement reform part of its agency-wide improvement initiative. During a hearing before the Commission, the agency's administrator testified that USAID has initiated actions intended to achieve contracting reforms. Changes included replacing large multi-year contracts with one-year or 18-month contracts to improve competition.

He also stated that USAID has increased its staff by six contracting officers, increasing the capacity for management and oversight of programs in Afghanistan. Through integration of programs, the agency contract managers have more visibility into subcontractors and fewer layers to deal with.

The USAID administrator said procurement reform is central to the agency's success and that funding from budget requests for FY 2012 would enable improvements in contracting, oversight, and procurement management.

The Commission has recommended establishing an office dedicated to contingency contracting and appointing a senior official to facilitate planning, preparedness, and resource allocation, as well as serving as a focal point for interagency communications and coordination. The USAID administrator declined to endorse the Commission's recommendations:

> USAID seeks to ensure that each and every officer has the capability to serve in a country that tomorrow may become our next contingency operation. We therefore require all of our contracting and agreement officers to maintain the capability to work in a contingency environment. At headquarters, we maintain an operations unit for foreign operations within the Office of Acquisition and Assistance. Our preference is to strengthen this office before devoting resources elsewhere.[15]

The Commission applauds USAID's self-assessment and its efforts to effect procurement reform. Development in both Iraq and Afghanistan has been seen as an essential pillar of U.S. long-term goals in both countries and as a key element in counterinsurgency (COIN) strategy, and in this USAID plays a crucial role. But

14. Patrick F. Kennedy, Under Secretary of State for Management, Commission hearing, June 6, 2011.

15. Dr. Rajiv Shah, Administrator, USAID, letter to Commission, July 8, 2011.

with the current pressure for cuts in federal spending, achieving this necessary reinforcement of USAID's capabilities will be a severe challenge.

As with Defense and State, the cultural change within USAID must go to the top of the organization. While requiring all contract-management personnel to maintain the capability to work in a contingency is laudable, the decentralized structure has not served the agency well. The gravest example is the fallout from the collapse of the Kabul Bank, showing that processes and rules that work elsewhere may be unsuitable in the midst of wartime operations.[16] Problems include over-reliance on contractors, missteps in developing requirements, lack of oversight of projects, inability to conduct quality assurance in a hostile environment, funds wasted, and schedules slipped.

As USAID reformulates procurement practices and builds its contracting workforce, the Commission believes this is an ideal time to adjust the way contracts and grants are awarded and managed, and to elevate the role of acquisition within the agency to better advise the administrator, as well as allow smoother coordination and communication with other agencies.

Contingency contracting, especially in an interagency operation, greatly benefits from contract managers and support staff who are experienced in meeting requirements in a restrictive and dangerous environment. The limitations in transportation and sources of supply, the lack of a trained local-contractor workforce, and the need for carefully vetted and armed security personnel may be addressed and mitigated through planning, preparation, and training.

USAID and U.S. Department of Agriculture officials with villagers near Qalat, Afghanistan. (U.S. Air Force photo)

16. Tim Cox, OIG/Afghanistan Director, USAID memorandum, "Review of USAID/Afghanistan's Bank Supervision Assistance Activities and the Kabul Bank Crisis," March 16, 2011.

Without adequate staffing and training, significant waste and possible failures can be expected as State faces the daunting task of the transition in Iraq and future transition in Afghanistan. USAID also faces uncertainty if it is once again tasked with accomplishing its development mission in a war zone. Without a focus on contingency contracting in both State and USAID, skill sets, tradecraft, and knowledge gleaned from lessons learned will be soon forgotten and the benefit of any staffing gains will be lost.

Without a focus on contingency contracting in both State and USAID, skill sets, tradecraft, and knowledge gleaned from lessons learned will be soon forgotten and the benefit of any staffing gains will be lost.

Acquisition as a core function

As noted, Defense, State, and USAID are resistant to changing the status quo by elevating acquisition within each agency. And the Joint Staff has resisted calls to elevate contingency contracting from its niche within J4 (logistics) to a new J10 directorate.

The Services Acquisition Reform Act of 2003 established the position of the chief acquisition officer (CAO) at agencies other than Defense that are required to have chief financial officers.[17] The Act provided that the CAO shall be a "non-career employee" and shall:

> (A) have acquisition management as that official's primary duty; and
>
> (B) advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through the management of the agency's acquisition activities.

The Act assigns authority and functions that include monitoring performance in acquisition, responsibility for related decision-making within the agency, managing the direction of policy, and assessing the skills of acquisition personnel.

The Act also clarified the role of the senior procurement executive (SPE), who will either be the CAO or report directly to the chief acquisition officer "without intervening authority."

The committee report for the Act indicated the CAO position was created to "eliminate stovepipes and serve as a focal point for acquisition in day-to-day

17. National Defense Authorization Act for FY 2004, sec. 1421, P.L. 108-136, codified at 41 U.S.C. 1702.

operations as well as in agency-wide strategic planning and performance evaluation processes."[18] Yet departmental stovepipes persist.

At State, the assigned CAO is the Assistant Secretary of State for Administration. That official is responsible for procurement—but procurement is just one item in a grab-bag of unconnected duties and functions that include records management, supply, transportation, logistics, language services, and diplomatic-pouch service, among others.

At USAID, the CAO is a career employee, serves as senior procurement executive (SPE), and reports to the Bureau for Management. The Bureau also oversees the chief information officer (CIO) and the chief financial officer (CFO), both of whom have "dotted-line" reporting relationships to the agency administrator.

The Commission believes that a CAO should have full-time, primary responsibility for acquisition, not simply have acquisition as one more duty in a long list of unrelated functions.

The CAO/SPE is the director of the Office of Acquisition Assistance, a career employee within USAID, who has significant acquisition experience in the agency. The CAO reports to the Director of the Bureau for Management, who also has a background in procurement. While this arrangement seems in line with the Act, having 20 direct-report personnel within an organization appears managerially unwieldy and procedurally inefficient.

As provided in the Services Acquisition Reform Act of 2003, the chief acquisition officers for State and USAID should be appointed and properly placed within the agencies in order to effectively "advise and assist the head of the executive agency." The position is responsible for widely varying duties, one being procurement, that impact both the headquarters staff and posts around the world. The CAO at State is currently positioned three levels below the agency head, within the Assistant Secretary of State for Administration's organization. This position has in the past been occupied by persons without acquisition experience.

The Commission believes that a CAO should have full-time, primary responsibility for acquisition, not simply have acquisition as one more duty in a long list of unrelated functions. In addition, the CAO needs an extensive background in acquisition to carry out the duties and responsibilities the law requires. Contingency contracting would then be a key responsibility of this renewed position.

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18. U.S. House of Representatives, Committee on Oversight and Government Reform, House Report 108-117, Part 1, May 19, 2003, 32.

Within Defense, State, and USAID, acquisition management must be given the same level of importance as agency offices and directorates dealing with finance, information technology, and human capital. Contingency contracting is central to an agency's ability to carry out its mission and pursue U.S. national strategic interests. This calls for making sure that agencies' acquisition executives are well positioned and properly staffed to advise and assist the agency head.

Meaningful progress towards achieving cultural change by recognizing that acquisition is a mission enabler will be limited as long as agencies resist major reforms that would serve to elevate the role of contracting. Cultural change will not occur without being embraced and actively promoted at the highest levels.

RECOMMENDATION 6

Elevate the positions and expand the authority of civilian officials responsible for contingency contracting at Defense, State, and USAID

- The Commission endorses the House version of the National Defense Authorization Act for FY 2012, H.R. 1540, sec. 967, which would amend section 138(b) of Title 10 U.S.C., stating in part:

  (a) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Contingency Contracting. The Assistant Secretary of Defense for Contingency Contracting is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters relating to planning, funding, staffing, and managing contingency contracting of the Department of Defense.

  (b) Requirement to Establish Office of Contingency Contracting - The Secretary of Defense shall rename and expand the Office of Program Support in the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics as the Office of Contingency Contracting. The Office of Contingency Contracting shall be headed by the Assistant Secretary of Defense for Contingency Contracting and shall be responsible for planning, funding, staffing, and managing contingency contracting in the Department of Defense.[19]

- To elevate the role of contingency contracting at the Department of State, supporting the department's mission and ensuring that acquisition is viewed as a full business partner and not a back-room administrative function, State should:
  - establish a separate Bureau of Acquisition led by an assistant secretary for acquisition who has a background as a qualified acquisition

19. H.R. 1540, sec. 967 (112th Congress).

professional and who would be designated as the agency's chief acquisition officer,

- ensure that the new bureau would have acquisition as its singular focus and primary mission, and
- establish additional Senior Executive Service positions to support the bureau's work.

- The chief acquisition officer within USAID should be a non-career appointment at an organizational level so as to facilitate advising and assisting the agency head.
- In addition, Congress should amend 41 U.S.C. 1702 to provide that the CAO's duties include managing policy and monitoring contingency contracting.
- To elevate the role of contingency contracting within USAID, the CAO should be identified as a "direct adviser" to the Administrator, a similar position to that of the chief financial officer and the chief information officer.

► RECOMMENDATION 7

Elevate and expand the authority of military officials responsible for contingency contracting on the Joint Staff, the combatant commanders' staffs, and in the military services

Defense should:

- extract operational contract support and other contract-support duties and responsibilities from J4 (Logistics) and create a J10 Directorate of Contingency Contracting at the Joint Staff in order to better support contracting in other directorates and missions such as intelligence, communications, linguistic support, and security; and
- create functional alignment by establishing similar J10 organizations at the combatant commands and in the four military services.

U.S. military and civilians with villagers near Kandahar, Afghanistan. (U.S. Air Force photo)

Chapter 6

Agency structures and authorities prevent effective interagency coordination

Agency structures and authorities prevent effective interagency coordination

Contingencies involve interagency operations. For Iraq and Afghanistan, those operations have been poorly managed in Washington and in the field. The result has been failed and costly contract implementation. Government agencies have taken on responsibilities for which they were not prepared—through new missions, expansion of traditional missions, or both—and often have carried them out with only a cursory regard for what other agencies were doing.

Mission responsibilities have not been matched to resources. Blurred roles and demanding timelines for contracting support of expanded missions have contributed to unsatisfactory outcomes. Too often, contracts have been awarded without advance knowledge of specific requirements and without recognition of the importance of having adequate government resources for management and oversight.

Without more rational assignment of responsibilities and distribution of resources, agencies' stark differences—in philosophies, approaches to contingency tasks, management structures, and resource allocations—will continue to spill over into the contracting arena, wasting dollars and losing opportunities. Moreover, without an integrated audit and investigative capability, much of this waste will likely go undetected.

The contingency mission stretches core competencies

Defense, State, and USAID have built their core competencies over decades, but the Iraq and Afghanistan contingencies have presented new demands on these competencies in type, tempo, and especially in order of magnitude. In both Iraq and Afghanistan, traditional civilian and military missions and core competencies have collided.

USAID has struggled to adapt its longer-term development practices to the military's shorter-term objectives and timelines.

Defense has become heavily engaged in stabilization and reconstruction—tasks seen as more akin to development than warfighting. USAID has struggled to adapt its longer-term development practices

to the military's shorter-term objectives and timelines. And State's diplomatic and governance missions have called for costly and substantial contingency-contracting programs such as police training and major wartime construction, the scopes of which are well beyond its in-house experience base.

The following discussion outlines some of the "contingency unique" activities undertaken in Iraq and Afghanistan by Defense, USAID, and State.

Department of Defense

Defense views contingency challenges through a short-term prism, filling any and all perceived needs as they are identified. It has a highly centralized management structure beginning in Washington and branching regionally through the combatant commands. Since 2001, in Afghanistan and Iraq, Defense's engagement in governance, reconstruction, and development is substantial, far-reaching, and extends beyond its core mission:

Afghan district and provincial leaders at a CERP workshop, Nangarhar Province. (U.S. Army photo)

- Commander's Emergency Response Program (CERP)—Conceived as a program of modest, community-focused activities to fund immediate humanitarian relief and reconstruction needs, CERP appropriations since 2003 are approaching $6.5 billion for Iraq and Afghanistan.[1] CERP has financed activities from small-scale community activities costing a few hundred dollars to large-scale power-generation and maintenance programs costing hundreds of millions of dollars. In the first quarter of fiscal year 2011 alone, Defense programmed more than 4,000 projects in Afghanistan costing $67 million dollars.
- Task Force on Business Stability Operations/Iraq (TFBSO)—As the "de facto primary tactical economic development resource for the U.S. mission in Iraq," TFBSO deployed more than 600 business specialists to work throughout Iraq. The task force has promoted private investment,

1. Special Inspector General for Iraq Reconstruction (SIGIR) 11-012, "Letter for the U.S. Secretary of Defense Director, Office of Management and Budget, subject: Commander's Emergency Response Program Obligations Are Uncertain," January 31, 2011, 1; Special Inspector General for Afghanistan Reconstruction (SIGAR) Audit Report 11-7, "Commander's Emergency Response Program in Laghman Province," January 27, 2011, i.

re-started industrial and agricultural production, strengthened banking networks, and reformed budget and procurement policies.[2]

- National Guard Agri-business Development Teams (ADT)—National Guard units from nine states are mobilizing hundreds of soldiers each year to provide agricultural expertise in a dozen key Afghan provinces.
- Village Stability Operations—The special-operations command in Afghanistan is contracting for a multi-million dollar effort to field civilian agriculture experts in support of its teams seeking to establish security and promote stability and governance in key villages.
- AfPak Hands—A 250-strong cadre of career military officers who serve multiple tours in theater, some as embedded civilian advisers to senior Afghan civil servants, operates completely outside of the military's traditional civil-affairs mission.

Defense's engagement in governance, reconstruction, and development is substantial, far-reaching, and extends beyond its core mission.

U.S. Agency for International Development

In contrast to Defense, USAID's principal focus has been humanitarian relief and long-term, sustainable development. It is highly decentralized, normally operating at the country level. It is severely resource-constrained and thinly staffed both in Washington and in the field. Consequently, it generally seeks to focus and concentrate its efforts within a given country. In Iraq and Afghanistan, USAID's traditional development approaches have been severely distorted in those fast-paced, highly insecure contingency environments.

- Afghan Vouchers for Increased Production in Agriculture (AVIPA)—In urgent need of a large stabilization capacity to support the troop surge, USAID dramatically expanded a modest $60 million food-security initiative to provide seed and fertilizer into an extensive $360 million stabilization project that included equipment purchases, cash for work, and community development in 2009. As noted in Chapter 3, the consequence was rampant waste and fraud.[3]

In Iraq and Afghanistan, USAID's traditional development approaches have been severely distorted in those fast-paced, highly insecure contingency environments.

2. Task Force for Business Stability Operations, "Enabling Security through Economic Opportunity: Iraq Final Impact Summary," January 31, 2011, 1.

3. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, 11-12.

- Strategic Provincial Roads (SPR)—In contrast to its normal practice of not undertaking development projects in insecure areas, USAID launched SPR in 2008 as its component of an interagency counterinsurgency (COIN) effort to strengthen security and promote stability in marginal and insecure areas by engaging communities and using Afghan contractors to construct gravel roads. Three years and $270 million later, the program is being closed down, having completed only a third of the planned 1,500 kilometers of roads, due mostly to the challenges of a steadily deteriorating security environment.[4]
- Kajaki Dam—The restoration activity was conceived and launched during the 2003-2005 period of relative calm and stability. Since then, a dramatic deterioration in security has essentially brought progress at the dam site to a halt.[5]

Kajaki Dam, Helmand Valley, Afghanistan, 2004. (U.S. Army photo)

Because Defense, State, and the International Security Assistance Force (ISAF) coalition deemed progress on the dam a vital COIN interest, USAID has been spending millions of dollars in an attempt to keep the project moving forward. By the time it is completed, USAID will have spent a substantial amount of money trying to maintain project momentum: paying for helicopters to fly in heavy construction materials and equipment, fielding numerous armed guards, and sustaining a barebones construction crew on site, all in addition to what was budgeted for the entire project at its inception.

Department of State

State, while maintaining strong central direction, operates with a country focus, and often establishes special representatives to lead contingency efforts (for example, the Special Representative for Afghanistan and Pakistan). Its resources in people and funds, however, fall well short of the levels it seeks from Congress.

In Iraq and Afghanistan, State's core governance and diplomacy competencies have been severely stretched, being tasked to undertake training and capacity-building contracts, award and oversee high-dollar construction contracts, and manage large numbers of security contractors. While State has performed all of these tasks world-wide for years, the efforts in Iraq and Afghanistan are

4. USAID, Strategic Provincial Roads-Southern and Eastern Afghanistan (SPR-SEA) Program presentation, March 21, 2011, 1.

5. U.S. Senate Committee on Foreign Relations, Majority Staff Report, "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, 10.

considerably larger than those it usually takes on. The following projects in the two theaters illustrate these concerns:

- Pol-i-Charkhi Prison—One of Afghanistan's main detention facilities, this construction project valued at $24 million has been plagued by faulty requirements preparation, poor subcontractor selection, and problematic performance by the State Contracting Officer's Representative.[6]
- Iraq Police Training Contract—In June 2004, State awarded DynCorp a $188.7 million task order for police training and support equipment. State paid $43.8 million to manufacture, store, and provide security for trailers that were not used, and $36 million for weapons and training equipment that could not be accounted for.[7]
- Kabul Embassy New Housing and Office Expansion Construction—The 1,000-plus civilians who were part of the 2009 U.S. surge—and the temporary housing and work space to accommodate them—are a mission-critical element of the U.S. transition strategy for Afghanistan. Unfortunately, due to poor contractor performance, the housing has only recently become available, roughly one year late and 18 months after the civilian surge began.

When interagency operations are built upon a divergent understanding of roles and missions, failure and waste often follow.

Broken interagency processes hamper operations

The previous examples show Defense, State, and USAID extensively engaged in activities beyond their core competencies and capacities, and struggling to perform many of them. Even more serious are interagency operations, where two or more agencies are working in concert to accomplish a COIN objective. When interagency operations are built upon a divergent understanding of roles and missions, failure and waste often follow.

6. Narcotics Affairs Section (NAS)/Bureau of International Narcotics and Law Enforcement (INL), "NAS/INL Construction Overview," November 16, 2010, 9; William J. McGlynn, Principal Deputy Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, statement, Commission hearing, January 24, 2011, 3.

7. SIGIR Audit Report 6-029, "Review of DynCorp International, LLC, Contract Number S-LMAQM-04-C-0030, Task Order 0338, for the Iraqi Police Training Program Support," January 30, 2007, i-ii.

Police training in Iraq and Afghanistan

This mission is claimed by both Defense and State, but each views it differently. In Iraq, Defense's short-term view has emphasized completing the mission and deploying 135,000 trained and equipped Iraqi police officers as quickly as possible. State has viewed police training as a subset of long-term criminal-justice and rule-of-law development. The departments' metrics for success could not be more different. Defense focused on "hitting the numbers," while State stressed integrating the effort into overall development of Iraqi government capacity.[8]

Iraqi police trainees, Basra, Iraq, 2011. (U.S. Army photo)

In reality, the Iraq requirement has been for both objectives, yet neither Defense nor State has brought the full package of capabilities to the table. Defense had the lead for police training, but lacked significant capabilities in nation building and civil governance. It depended on State to fulfill this role through sizeable police-training contracts.

State struggled to manage these contracts effectively. An Assistant Secretary of State said the mission in Iraq had "often outstripped our staffing and oversight capabilities, both domestically and in the field."[9] Moreover, no mechanisms have existed that could effectively integrate the planning and management of the overall police training program. Numerous audits and reviews have documented the ineffective contracting and waste that ensued.[10]

In Afghanistan, training the police is a monumental task due to high attrition rates, corruption, illiteracy, and sustainability challenges. Adding to the complexity, Defense and State initially spread these responsibilities across three contracts: training conventional police, training border police, and building capacity at the Ministry of Interior.

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8. Department of State, Report No. ISP-IQO-05-72, and Department of Defense, Report No. IE-2005-002, "Interagency Assessment of Iraq Police Training," July 15, 2005, 3, 43-45.

9. Ambassador Anne Patterson, Assistant Secretary of State, Bureau for International Narcotics and Law Enforcement Affairs, House Committee on Armed Services, Subcommittee on Oversight and Investigations hearing, April 25, 2007, 4-5.

10. Department of State, Report No. ISP-IQO-05-72, and Department of Defense, Report No. IE-2005-002, "Interagency Assessment of Iraq Police Training," July 15, 2005, 43-45.

In 2009, faced with a challenge to dramatically expand the size of the police force, Defense moved to consolidate these disjointed contracts into a single program that it would manage and execute itself. Despite this effort to rationalize the contracts, Defense's flawed acquisition strategy resulted in a protest and sole-source extension to the State contract, and in a lengthy delay in mobilizing the new contract, all costly and detrimental to the mission.[11]

The Defense–to–State transition in Iraq

In two special reports and two congressional hearings, the Commission signaled its concern about lack of progress in the Iraq transition from Defense to State, while emphasizing that the rapidly approaching transition in Iraq is vital to stability in the region.

Expanding and sustaining State's presence in Iraq would be a huge undertaking in the best of circumstances. But circumstances are not the best, or even good. Iraq is a heavily damaged country confronting challenges that include a dynamic insurgency and substantial turmoil in the region. A pressing need is to complete arrangements for handing over the many support functions that the U.S. military has been performing as part of its mission. Many of these duties will continue to be required after the U.S. military's scheduled departure from Iraq by the end of December 2011, but as part of State's mission.

Expanding and sustaining State's presence in Iraq would be a huge undertaking in the best of circumstances. But circumstances are not the best, or even good.

State has turned to contracting in the face of this huge new security, governance, and development mission. It is struggling to resolve budget issues and prepare requirements for awarding a large number of contracts, along with mobilizing the many U.S. government civilians needed to effectively manage these contracts. This transition faces continuing challenges due to the magnitude and speed with which the handover is approaching, plus the uncertainty created by the possibility that a new intergovernmental agreement may extend some U.S. military presence beyond 2011.

11. Commission hearing, December 18, 2009, transcript, 16-17, 35, 63, 88, 95-96; GAO Report B-402349, "DynCorp International, LLC protest," March 15, 2010.

Other examples of broken interagency processes

Kabul–Kandahar highway bridges

In summer 2008, insurgents destroyed numerous bridges on the Kabul–Kandahar Ring Road constructed by USAID. Three years after an interagency consensus on the counterinsurgency imperative of reconstructing the bridges as soon as possible, agreement on using CERP for funding, and on USAID serving as the executing agency, none of the bridges is complete. The promise of this interagency consensus was frustrated by the slow transfer of funds from Defense to USAID, among other problems.

Private security contractor oversight

Agencies have been working for many months to address the problem of vetting, training, and registering private security contractors and sub-contractors. The lack of common protocols for sharing resources and responsibilities among Defense, State, and USAID entails the risk of thousands of Afghan nationals receiving weapons without proper vetting, training, registering, or effective oversight.

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Counterinsurgency contracting

Throughout the spring of 2010, numerous U.S. and International Security Assistance Force entities and the Afghan government began to question how best to stem the leakage of funds from badly written and poorly overseen logistics, security, and reconstruction contracts.

After more than a year, agencies are finally beginning to arrive at a consistent interagency approach to contractor and subcontractor vetting, stronger contract clauses regarding contractor behavior, and limits on the layers of subcontracting, among other steps. In the meantime, however, hundreds of millions of dollars have flowed out to the networks of warlords, criminals, and insurgents, at huge cost to the COIN mission.[12]

12. USAID, "Accountable Assistance for Afghanistan white paper," June 21, 2011; GAO Report 11-355, "U.S. Efforts to Vet Non-U.S. Vendors Need Improvement," June, 2011, 1; GAO Report 11-771T, "Operational Contract Support, Actions Needed to Address Contract Oversight and Vetting of Non-U.S. Vendors in Afghanistan," June 30, 2011.

Challenges of in-country coordination

Effective in-country coordination requires clear delineation of roles and responsibilities for achieving mission objectives, effective interagency processes, and sufficient staff to perform the coordination tasks.

Roles and responsibilities are poorly defined

The government has recently devoted much effort to identifying, clarifying, and implementing agency and personnel roles and responsibilities. One strategic-level success in this effort is the Interagency Agriculture Strategy for Afghanistan, which clearly identified the roles and responsibilities of the U.S. Department of Agriculture (USDA), USAID, National Guard Agri-business Teams and the Afghan government.[13]

Other key development sectors, however, do not have such well-delineated strategies, whether developed outside or inside Afghanistan, for economic growth, infrastructure, health, education, or democracy and governance. Nor is interagency coordination effectively implemented in theater. Nevertheless, agencies plan, award, and manage high-dollar acquisitions in these sectors every month in Afghanistan.

The coordination process is exceedingly complex

The need for interagency coordination, particularly among Defense, State, and USAID, is not new. Processes exist that can execute interagency contingency operations during the early stages of a humanitarian contingency such as the recent earthquake in Haiti. However, facing the fast operational tempo and timelines of a military contingency, and absent a deployable cadre, the various entities create their own processes from scratch. The result is a proliferation of ad hoc, complex, and time-consuming inter-agency and civilian-military coordination groups.

In a typical U.S. embassy, the USAID mission director—along with small attaché offices for Treasury, Agriculture, Justice, and other agencies—normally serves under the aegis of the deputy chief of mission. With the advent of the spring 2009 Afghanistan surge, though, the Kabul embassy became responsible for planning, coordinating, managing, and reporting on an interagency portfolio of several billion dollars of stabilization, governance, and development programs. It was charged with overseeing the day-to-day operations of 14 federal agencies, four regional platforms in the battlefield, and more than 1,000 new civilians arriving as part of the surge. In addition, the embassy faced a massive challenge in

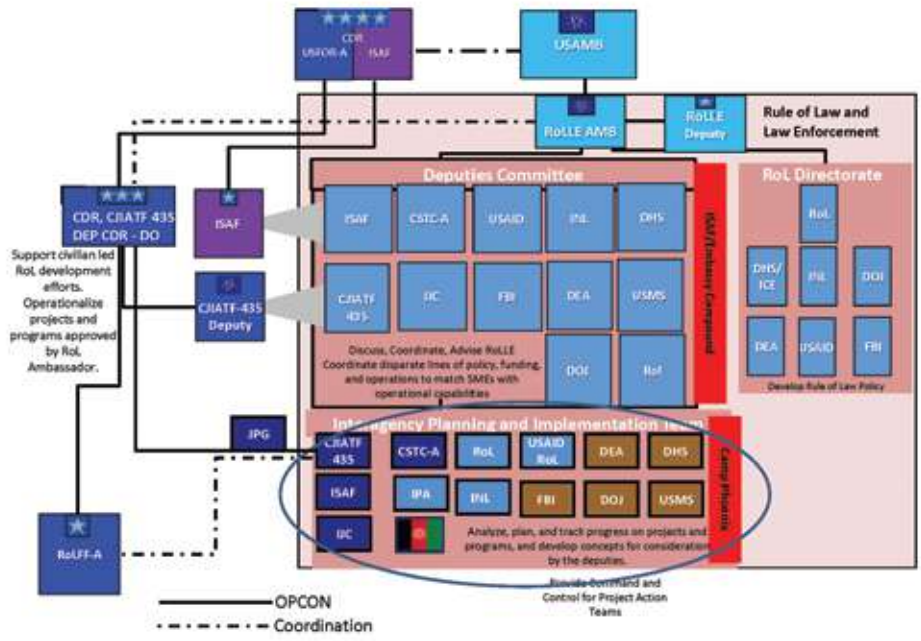
13. USAID, "The US–Afghan Agriculture Partnership," November 2010, 5, 10.

coordinating the activities of these civilian agencies with the U.S. and coalition military, other donors, and the Afghan government.

For almost all of the entities involved, this was a dramatically new way of doing business. Unfortunately, at the outset the embassy did not have either the personnel or standard operating procedures for taking on such a complex coordination role, and much valuable and expensive time was lost.

Figure 2 depicts the breadth of the interagency challenges arising from just one major element of the civilian mission, rule of law and law enforcement. State named a seasoned diplomat with ambassadorial rank to lead this effort. He created a complex rule-of-law (ROL) command-and-control structure over a six-month period to bring some order to a multi-faceted and fluid environment. Behind each box in this figure are numerous people working to keep up with meetings and a continuous flow of communications.

Figure 2. U.S. Rule of Law structure in Afghanistan



Source: U.S. Mission to Afghanistan, U.S. Embassy, Kabul, Afghanistan, Rule of Law (ROL) Organizational Chart, November 5, 2010.

The U.S. ROL group is not an isolated case. Each development sector—economic growth, health, education, infrastructure, democracy, and governance—has its interagency working group. Additional groups have been created to coordinate critical cross-cutting issues, such as COIN contracting, anti-corruption, threat finance, stabilization, major

crimes, Afghan First, the Afghan Presidential Decree 62, and the 2014 ISAF-to-Afghan government transition.

Moreover, none of these efforts includes the interagency coordination required to manage the efforts of the 49 participants in the NATO/ISAF mission, or relations with the multilateral donors or the Afghan government.

More daunting yet is the fact that most interagency-coordination elements in theater may or may not be mirrored by counterparts in Washington. This raises the possibility that the interagency-coordination structure may be marred by gaps, duplications, and cross-purposes. Further, a score of immature interagency–coordination mechanisms can easily become costly drains on personnel and financial resources.

Essential elements for effective interagency coordination are missing

Chapter 5 stressed the urgency of strengthening contingency contracting capabilities and capacities at the agency level, and called for elevating the authority and responsibility to place them much closer to the agency heads. This is a necessary but not a sufficient step toward better coordination.

Agency heads perform strategic functions in their separate venues, but a single point of interagency-coordination authority with accountability is lacking. It is at this level that the essential elements for effective interagency coordination can be enforced and ensured by providing:

- a clear policy that identifies the accountable authority for overseeing interagency coordination and planning preparedness;
- a delineation of agency roles, responsibilities, and contingency core competencies, as well as a dispute resolution mechanism and associated funding commitments;
- an effective interagency contingency–planning process; and
- a mechanism for institutionalizing interagency coordination capability, through dedicated funding and a set of standard operating procedures.

In the absence of these elements, interagency coordination will remain ineffective.

Policy and authorities

Strategic direction must be provided by one individual to and through an interagency structure. Officials from each of the agencies constituting that structure need to perform the same strategic function within their own agencies.

In addition, officials need to translate strategic direction into operational direction for the field. A field-based structure therefore must be created to ensure parallel integration and coordination. That field-based structure, created with appropriate authority, must also have the resources necessary to manage the process.

Defense uses a common operating picture to ensure unity of command and purpose as the basis for its operations in the field. A field-based common operating picture for all agencies can enhance the interagency and multilateral process as well, particularly the effective and efficient use of contracted resources.

Roles and responsibilities

Effective interagency coordination demands that roles and responsibilities be clearly defined and assigned to the appropriate agency or mix of agencies. In both Washington and the field, interagency operations need to be staffed with the appropriate mix of civilian and military personnel. Yet no existing interagency process can assess arguments for or against substantial involvement of organizations operating in virtually identical spheres of activity. With billions of taxpayer dollars involved, this is a situation ripe for overlaps or gaps and the waste that comes with them.

With billions of taxpayer dollars involved, this is a situation ripe for overlaps or gaps and the waste that comes with them.

Clearly delineating roles and responsibilities may involve reallocating resources, authorities, and responsibilities among agencies. Military and civilian staffing should include not only enough resources to conduct assigned missions, but equally important, enough to manage and oversee the contractors hired to fill government gaps.

Effective interagency planning

Much of the wasteful contracting in Afghanistan and Iraq can be attributed to poor interagency planning. Effective interagency planning takes time to arrive at a consensus, yet each of these contingencies was marked by little advance planning, ad hoc decision-making, and hurried implementation.

Much of the wasteful contracting in Afghanistan and Iraq can be attributed to poor interagency planning.

In the absence of an overriding policy and body of operating procedures, members of the interagency community are doomed to re-create processes and procedures once a new contingency begins.

The existing planning vehicle in the Afghanistan theater is the *Integrated Civilian-Military Campaign Plan*, the first version of which was signed in August 2009 after months of preparation. Immediately after signing it, the principals launched an update process, coordinated by a seasoned military planner. In February 2011, they signed the *Integrated Civilian-Military Campaign Plan, Revision 1,* and immediately launched the planning process for Revision 2.

Having an integrated plan is commendable, assuming that it is disseminated, understood, and faithfully executed. What is troubling from the viewpoint of interagency coordination is that it took nearly eight years from the start of U.S. military operations in Afghanistan to get to an agreed-upon plan, then another year and a half to make the first revision.

Institutionalizing the interagency capability

The previous examples also contain the seeds of improvement for interagency operational readiness for the current contingencies and for those to come. Lessons can be harvested as they emerge from the Afghan and Iraq contingencies. In the absence of an overriding policy and body of operating procedures, however, members of the interagency community are doomed to re-create processes and procedures once a new contingency begins.

There are substantial opportunities both to deploy the resources of the whole of the U.S. government more effectively and to avoid repeating past contracting failures. But in a time of shrinking budgets and tight competition for resources, sustaining the hard-won interagency capability will be a challenge. A dedicated funding stream, a core set of standard operating procedures, and a central decision-making authority are essential to institutionalizing these capabilities.

► RECOMMENDATION 8

Establish a new, dual-hatted senior position at OMB and the NSC staff to provide oversight and strategic direction

Congress should create a position in the Administration for a single dual-hatted official to:

- Serve at OMB and on the NSC staff.
- Ensure that each relevant agency has the necessary financial resources and policy oversight, as appropriate, to carry out its contingency-related mission,

and that agencies' budgets are complementary rather than duplicative or conflicting. In OMB, this official should be a deputy director and thus a presidential appointee confirmed by the Senate.

- Oversee and ensure coordination of interagency contingency operations, including contracting-related matters. At the NSC, this senior official shall attend and participate in the meetings of the NSC as the principal advisor to the NSC on interagency contingency operations. This official should be a deputy national security adviser and deputy assistant to the President.

Oversight agencies—a special challenge in interagency coordination

Audit and investigative oversight is a critical component of effective contingency contracting. Given the dramatic increases in resources, personnel, and contingency contracts being deployed in the two theaters, no agency operating in Afghanistan and Iraq has sufficiently bolstered its audit and investigation capabilities.

Table 8. Federal agencies and departments supporting contingency operations in Iraq and Afghanistan through contracts and grants

1. Department of Defense	7. Department of the Interior	13. Peace Corps
2. Department of State	8. Department of Homeland Security	14. Social Security Administration
3. U.S. Agency for International Development	9. Department of the Treasury	15. Department of Commerce
4. Department of Justice	10. Department of Agriculture	16. Department of Veterans Affairs
5. Department of Health and Human Services	11. Department of Transportation	17. Environmental Protection Agency
6. General Services Administration	12. Broadcasting Board of Governors	

Source: www.USAspending.gov, last updated February 15, 2011.

Given the plethora of federal agencies and departments spending money for contracts and grants to support operations in Iraq and Afghanistan, it is a challenge to coordinate the efforts of five inspectors general, the Army Audit Agency, Defense Contract Audit Agency (DCAA), Defense, and service investigative agencies (Defense Criminal Investigative Service, Naval Criminal Investigative Service, among others), and the Government Accountability Office (GAO).

None of these audit or investigative agencies, except GAO, has the authority to look at all aspects of contingency operations, and the coordination mechanism mandated by Congress has been ineffective.[14] In addition, when uncoordinated oversight occurs it leads to overlapping requests to the overseen entities for information, interviews, meetings, and reports. A permanent contingency inspector general could reduce the burden on entities operating in-country of multiple and duplicative requests for information and support.

Representatives of the audit community meet regularly in Washington and Afghanistan to share audit schedules and other matters. This has served primarily as an information-sharing meeting, and is insufficient to the task at hand.

Audits and investigations oversight requirements in Afghanistan and Iraq are mission-critical, given the scope, scale, and impact of waste and corruption in the two theaters and their pernicious effects on the U.S. mission. Civilian and military program managers acknowledge the critical value–added of the audit and investigative oversight, and seek timely feedback on what they might be doing better; all they ask is that they get the feedback in a timely manner so they can catch problems early.

The special inspectors general for reconstruction in both Iraq and Afghanistan, unlike the other inspectors general, have an interagency mandate. They have helped focus oversight attention and resources on contingency reconstruction problems. But their mandates do not include other important areas such as logistics or language services. Moreover, these offices did not exist at the beginning of the wars, were slow to get started, had problems in recruiting trained personnel with experience in a war zone, and operate under a statutory mandate for closing down.

The work of the Special Inspector General for Iraq Reconstruction and other audit organizations has demonstrated the value of having oversight capabilities and a visible presence in theater.

Contingencies present unique risks and challenges to the oversight community requiring interagency-specific expertise in: contractor vetting, overseas investigations, the civilian-military interface, multi-lateral and coalition complexities, and host–nation relations. Given the heightened risk of waste, fraud, and abuse in contingencies, ensuring proper oversight has the potential to reduce vulnerabilities, save dollars, and hasten the accomplishment of the mission.

14. Sec. 842, National Defense Authorization Act for FY 2008, P.L. 110-181.

No entity exists with sufficient resources, experience, and audit and investigative capabilities to transcend departmental and functional stovepipes and develop experienced audit and investigative staff to ensure visibility into contingency contracting waste, fraud, and abuse. In addition, no inspector general organization has been able to deploy and execute operations at the outset of contingency. The work of the Special Inspector General for Iraq Reconstruction and other audit organizations has demonstrated the value of having oversight capabilities and a visible presence in theater.

No entity exists with sufficient resources, experience, and audit and investigative capabilities to transcend departmental and functional stovepipes.

In addition, there are no standardized certification requirements and training for auditors and investigators in contingency operations. A central office within a permanent inspector general that develops, plans, and delivers training for auditors and investigators who may be required to work in contingencies could help resolve this problem.

► RECOMMENDATION 9

Create a permanent office of inspector general for contingency operations

Congress should establish and fund a permanent inspector general for contingency operations to:

- Operate with a small staff in collaboration with agency inspectors general to regularly assess the adequacy of agency planning and readiness for contingencies, to be ready to deploy at the outset of a new contingency, and to expand as necessary.
- Exercise audit and investigative authority over all functions (such as logistics, security, and reconstruction) and across Defense, State, USAID, and other agencies participating in contingency operations.
- Develop, plan, and, as appropriate, deliver investigative and oversight training targeted to contingency operations.

Advisors from Departments of State and Agriculture meet with Afghan locals, Panjshir Province, Afghanistan. (U.S. Army photo)

Provincial Reconstruction Team with contractors at bridge-repair job site, Zabul province, Afghanistan. (U.S. Air Force photo)

Chapter 7

Contract competition, management, and enforcement are ineffective

Contract competition, management, and enforcement are ineffective

Agencies have faced unique challenges in trying to make peacetime practices regarding contract competition, management, and enforcement apply in Iraq and Afghanistan. They will likely face the same challenges in future contingencies. The need to accomplish missions in Iraq and Afghanistan with constrained resources has led to the award of contracts using procedures that have not resulted in effective competition.

The federal-procurement system is founded on three fundamental tenets that are as relevant in contingency contracting as in peacetime operations:

- full and open competition under which all responsible firms are allowed to participate;
- transparency through public notice of the U.S. government's requirements and awards; and
- process-integrity that is consistently enforced through policies and laws on ethical behavior, timely audits, and contract oversight.

Acquisition managers, overloaded with work, have not focused on recording and using contractor-performance evaluations as they might in peacetime, with the consequence that local, third-country, and U.S. contractors performing in Iraq and Afghanistan may escape agency oversight and law enforcement. The current contingencies have created a number of distinct problems:

- Unprecedented reliance upon a single-award task-and-delivery-order contract—such as the Logistics Civil Augmentation Program (LOGCAP) III contract—often undermines effective competition. Unless multiple contractors compete for task orders, it is difficult to obtain the best pricing or performance.
- The Defense Contract Audit Agency (DCAA) has accumulated a backlog of billions of dollars in unaudited contingency-contract costs.
- Portions of contract payments made to Afghan subcontractors were diverted to the insurgency—a problem that U.S. enforcement efforts are not yet equipped to handle.

Acquisition managers, overloaded with work, have not focused on recording and using contractor-performance evaluations as they might in peacetime.

- Agencies' failure to record contractor-performance assessments has serious consequences. Without the necessary insight into contractor performance, the risk of agencies' awarding contracts to habitual poor performers increases.
- For contractors performing in Iraq and Afghanistan, the United States may have no tool better than effective use of the suspension or debarment process; however, full-scale suspension and debarment procedures cannot be applied effectively in contingency environments.

In its second interim report and again here, the Commission recommends a number of improvements to contingency contracting to promote adherence to the fundamental tenets of the procurement process.

Contingency-contracting competition is ineffective

Dynamic contingency operations generate rapidly changing support requirements that must be met within short timeframes. Effective competition motivates contractors to provide fair pricing, best value, and quality performance. On the other hand, the tension between a contractor's motivation to make a profit and the demand for good performance still exists.

The lessons from contingency contracting in Iraq and Afghanistan are that agencies have not effectively employed acquisition-management strategies that balance the United States' interests with contractors' competing objectives.

Afghan contractors registering so they can compete for contracts, Lashkar Gah, Afghanistan. (U.S. Marine Corps photo)

Policies and practices hamper competition

Several policies and practices hamper competition in a contingency environment. Despite a more mature contracting environment in Iraq and Afghanistan today, Defense, State, and USAID still do not consistently emphasize competitive-contracting practices. Some of the agencies' procurement and acquisition strategies have restricted competition and favored incumbent contractors, even those with demonstrated performance deficiencies.

Defense, State, and USAID still do not consistently emphasize competitive-contracting practices. Some of the agencies' procurement and acquisition strategies have restricted competition and favored incumbent contractors, even those with demonstrated performance deficiencies.

Agencies have repeatedly:

- awarded long-term task orders that were not recompeted when competitive conditions improved;
- extended contracts and task orders past their specified expiration dates, increased ceilings on cost-type contracts, and modified task orders and contracts to add extensive new work;
- favored using existing task- and delivery-order contracts like LOGCAP over creating more competitive and targeted contract vehicles;
- used cost-reimbursable contract types even though simpler, fixed-price contracts could expand the competitive pool; and
- failed to record incumbent contractors' performance assessments in the federal past-performance database.

Federal agencies often rely on pre-existing task-order contracts and non-competitive awards to meet urgent, mission-critical needs. Agencies award "base" contracts for an indefinite quantity or schedule of work, then issue task orders against the contracts that include specific requirements and detailed terms and conditions. Inadequate competition is the result of awarding both the base contracts and the task orders issued against these contracts.

Contracting officers and contractors alike find it convenient to award task orders even though they often are awarded with inadequate competition, involve non-competitive sole-source contract modifications that extend the period of performance, and are awarded after only a single acceptable offer.

Much of the contingency-support requirements in Iraq and Afghanistan and in future contingencies will be met through the use of task- and delivery-order

contracts. Failure to maximize the use of multiple-award task- and delivery-orders rather than single-award contracts and to establish requirements that increase the ability of more than one contractor to compete meaningfully is simply inefficient.

Competition advocates have not effectively enhanced contingency-contract competition

As contingency operations have stabilized, agencies have not adequately revised their traditional contingency-contracting approaches to introduce competition into many long-term support contracts.

- In Afghanistan, the Army twice modified its 2007 contract for interpreters instead of recompeting new requirements worth billions of dollars.[1] Contracting officers' ad hoc decisions to extend contracts demonstrated a failure to consider overall competition goals.
- Under State's critical Iraq police training contract, the agency circumvented the requirement for "fair opportunity" by awarding task order 1436, worth $1.4 billion, without competition.
- Under the terms of the multiple-award LOGCAP IV contract, task orders are awarded for five-year periods (a base year plus four one-year options). Although DynCorp, KBR, and Fluor compete for task orders under the contract, the competition is limited and inadequate. The LOGCAP IV acquisition strategy provides little incentive for contracting officers to break out subcontracts or separately compete new requirements.
- For many years, the U.S. Army used the LOGCAP III contract for its logistics support in Iraq. LOGCAP III was a competitively awarded contract that was awarded to a single firm. Under this long-term contract, agencies' requirements were met through non-competitive task orders. Single-award task order contracts and frequent exceptions to competition illustrate the need to set and meet competition goals for contingency contracts.

As contingency operations have stabilized, agencies have not adequately revised their traditional contingency-contracting approaches to introduce competition into many long-term support contracts.

Agency competition advocates are responsible for monitoring and reporting aggregate rates of competition. Yet current reporting requirements do not carve out separate categories for contingency construction, services, or supplies. Combining these categories for measurement purposes misstates the true extent

1. The Federal Business Opportunities website has posted justification and approval documents for both extensions.

of competition and prevents officials from focusing on those areas that need improvement.

Competition can be enhanced by looking for opportunities to transition cost-type to fixed-price contracts that may broaden the pool of qualified contractors to include those whose business systems do not meet the standards for a cost-type contract. The prospect of enhanced competition can motivate contractors to continuously improve their performance.

The House of Representatives, in its version of the National Defense Authorization Act for FY 2012, H.R. 1540, included key Commission competition recommendations regarding the establishment of competition goals and measures, as well as reviews and reports on competition levels. The Senate Armed Services Committee's version of the Act for FY 2012, S. 1253, section 821, also included a provision addressing the Commission's recommendations concerning past performance. The Office of Federal Procurement Policy also supports the Commission's competition recommendations.

Competition that is merely illusory undermines the U.S. government's ability to obtain the best value for taxpayers' money and to foster excellent contractor productivity and performance innovation.

State and USAID have recognized the merits of the Commission's competition recommendations, but both agencies questioned the practicality of applying the procedures during contingency operations. Therefore, the Commission re-emphasizes the need for competition reform. Prompt development of acquisition strategies along the lines of the Commission's reform proposals will lead to greater competition during contingencies.

Competition that is merely illusory undermines the U.S. government's ability to obtain the best value for taxpayers' money and to foster excellent contractor productivity and performance innovation. Defense recognized that it had not been taking advantage of the potential savings and performance improvements provided by effective competition. In September 2010, Defense implemented reforms to reduce the incidence of one-offer competitions. Other agencies have yet to place a similar emphasis on competition policy.

Accordingly, the Commission reiterates its previous recommendations for congressional direction to agency heads:

► RECOMMENDATION 10

Set and meet annual increases in competition goals for contingency contracts

Agency heads should:

- require competition reporting and goals for contingency contracts;
- break out and compete major subcontract requirements from omnibus support contracts;
- limit contingency task-order performance periods;
- reduce one-offer competitions; and
- expand competition when only one task-order offer is received.

Because of agencies' failure to conduct contractor-performance assessments or record them in government-wide databases, agencies lack the necessary insight into contractor performance and have an increased risk of awarding contracts to habitual poor performers.

Current contract enforcement tools are inadequate to protect government interests

Agencies can improve their ability to conduct meaningful contract competitions if they consistently conduct and record contractors' performance assessments in the federal past-performance database, and use the performance information when making source-selection or suspension-and-debarment decisions.

Agencies do not effectively use past-performance data in contingencies

A Commission hearing in early 2011 confirmed its earlier conclusion that the required performance assessments are not completed and that contractors' performance in a contingency is not adequately shared across agencies.[2] Because of agencies' failure to conduct contractor-performance assessments or record them in government-wide databases, agencies lack the necessary insight into contractor performance and have an increased risk of awarding contracts to habitual poor performers.

2. Commission hearing, February 28, 2011.

Contractor appeals of performance assessments distract contracting officers in contingencies and effectively discourage candid evaluations. Senior leaders have failed to enforce the requirement to conduct or record contractor assessments.

After considering comments received from contractors and agency officials, the Commission reiterates its previous recommendations that Congress direct agency heads to:

► RECOMMENDATION 11
Improve contractor performance-data recording and use

- Allow contractors to respond to, but not appeal, agency performance assessments.
- Align past-performance assessments with contractor proposals.
- Require agencies to certify use of the past-performance database.

Agencies do not use suspension-and-debarment processes to full effect

Suspension and debarment can be powerful tools to protect the government's interest in doing business only with contractors capable of performing their contractual obligations and maintaining acceptable standards of behavior. The opportunity costs of a suspension or debarment are very high for government contractors.

Nevertheless, agencies sometimes do not pursue suspensions or debarments in a contingency environment, preferring instead to enter into administrative agreements. In November 2010, the Louis Berger Group entered into a deferred-prosecution agreement with the Department of Justice after allegations of massive fraud. USAID did not suspend the firm. Instead, the agency entered into an administrative agreement which allowed the firm to continue competing for federal contracts.

When agencies fail to suspend contractors from participating in the federal marketplace despite chronic misconduct, criminal behavior, or repeated poor performance, the deterrent threat is lost.

Agency officials cite the complexity of suspension-and-debarment procedures as a reason for not using the tools as often as they could. In some circumstances, regulations provide contractors who have been proposed for suspension or debarment the opportunity to request a hearing on disputed facts before the agency takes final action. The Commission found that it is extremely difficult, if not impossible, to locate and

present witnesses and essential evidence in support of a suspension or debarment based on disputed facts in a contingency environment.

In addition, when officials determine that a recommendation to suspend or debar a contractor will not be pursued, they often do not record their justification. Documenting determinations and findings is not a burden, and is standard practice for most agencies. Further, the requirement for a written justification for not taking action applies only to official recommendations such as those by inspectors general or contracting officials.

U.S. government has limited jurisdiction over criminal behavior of foreign contractors

Contingency operations and programs that expend huge sums of money over a short period of time have not employed effective tools and oversight techniques to minimize contract waste, fraud, and abuse. Contingency operations in Afghanistan are under special pressure to control the diversion of funds from contractors or subcontractors to insurgents.

In contingencies, the government depends on foreign contractors to a degree never seen in normal contracting, yet lacks the strong legal tools to deal with them. At a Commission hearing in June 2011, the Under Secretary of State agreed to pursue recovery of $132 million from the firm First Kuwaiti for deficiencies in contracts for the design and construction of the new embassy compound in Baghdad. This was first reported in 2009. State's failure to recover the money points to a need for stronger tools for dealing with foreign contractors.

Afghan contractors, Musa Qa'leh, Afghanistan. (U.S. Marine Corps photo)

The government has not made full use of its recently developed system for vetting contractors to determine if they have known connections with the insurgency. The current Joint Contingency Contracting System tracks prime contracts, but not subcontractors. Subcontractors in Afghanistan are often small Afghan firms that pose a risk of being connected with "bad actors."

Termination of contracts and subcontracts with insurgent-connected firms without further payments being made to them is difficult. However, the House

of Representatives has included a provision in its version of the National Defense Authorization Act for FY 2012, H.R. 1540, section 821, that would void contracts with such entities. The Senate Armed Services Committee's version of the Authorization Act, S. 1253, contains a similar provision at section 861.

Claims against foreign prime contractors and subcontractors have gone unaddressed because the U.S. courts lack personal jurisdiction over the foreign defendants.

Investigating and prosecuting procurement-related crimes and other misconduct serve as powerful deterrents to contingency-contract waste, fraud, and abuse. This deterrent effect is especially important in the early stages of a contingency, when contractors perform in a rapidly changing environment and under limited government oversight. Deterrence is especially critical in large-scale contingencies, such as Afghanistan, where agencies need reliable investigation and prosecution tools to deal with a number of big contractors whose inadequate business systems put large-scale contracts at risk.

Claims against foreign prime contractors and subcontractors have gone unaddressed because the U.S. courts lack personal jurisdiction over the foreign defendants. Without establishing personal jurisdiction, attempts by the United States and other parties to recoup damages for civil-contract claims, and for private parties to recover on tort claims arising out of conduct related to government contracts, are protracted and expensive for all parties involved. Foreign courts may

Iraqi children surround donkey cart, Biaj, Iraq. (U.S. Navy photo)

be unavailable, unreliable, or otherwise unable to hear these claims. United States criminal jurisdiction over non-Defense contractors and subcontractors operating overseas also remains uncertain.

Contributing to the difficulty of prosecuting procurement-related crimes is the challenge of gathering evidence in contingency environments. The chaotic conditions of war zones often impede quick investigative responses. Investigative agencies are often unable to access information, physical evidence, and witnesses in a timely manner.

Contracting officers need a full array of tools for dealing with foreign or local contingency subcontractors. These firms come from an entirely different culture than that of the United States and they perform in a chaotic and unpredictable environment. Contracting officers need better visibility into subcontractor performance, as well as tools for intervening to avoid contract waste and fraud such as these:

$400 million Defense (Army) LOGCAP III contract—The Tamimi subcontractor-kickback scandal detailed in Chapter 3 provides a strong example of the difficulties of investigating foreign subcontractors.

$17.6 million Defense (AFCEE) infrastructure project—The Air Force subcontractor, ENCORP, failed to pay its second-tier subcontractors, and the ENCORP owner fled the country with around $2 million. As detailed in Chapter 3, poor oversight and management of foreign subcontractors resulted in a delay of this important project for more than a year.

Exploitation of persons in contingency contracting remains a serious problem in Iraq and Afghanistan

At many times during its travels and hearings, the Commission uncovered tragic evidence of the recurrent problem of trafficking in persons by labor brokers or subcontractors of contingency contractors.[3] Existing prohibitions on such trafficking have failed to suppress it. Labor brokers or subcontractors have an incentive to lure third-country nationals into coming to work for United States contractors, only to be mistreated or exploited.

Some prime contractors, although not themselves knowingly violating the prohibitions on trafficking, have not proactively used all their capacities to supervise their labor brokers or subcontractors. For such prime contractors,

3. Commission hearing, July 26, 2010.

agencies have not effectively applied positive and negative incentives in the contracts they award.

The Commission identified the need for a number of important changes to foster competition, improve contract management, and assure compliance in a contingency environment. If implemented, these changes will save billions of dollars and lead to more effective contingency contracting and accountability.

Accordingly, the Commission reiterates several recommendations from its second interim report and offers two new recommendations to strengthen contract-enforcement tools.

► RECOMMENDATION 12
Strengthen enforcement tools

- Facilitate the increased use of suspensions and debarments for contingency contractors by revising regulations to lower procedural barriers and require a written rationale for not pursuing a proposed suspension and debarment.[4]
- Make consent to U.S. civil jurisdiction a condition of contract award.
- Expand the power of inspectors general.
- Amend acquisition regulations to require contracting-officer consent for the award of subcontracts valued at or above $300,000 to foreign companies when performance will predominantly be conducted overseas in support of contingency operations.
- Direct agencies to incentivize contingency contractors to end trafficking in persons by labor brokers and subcontractors by requiring prime contracts to include performance incentives, such as award fees, and mandate that an assessment of contingency contractors' management of trafficking in persons be included in performance assessments.

4. In its February 2011 interim report, the Commission recommended mandatory suspension for contractors indicted on contract-related charges. Following additional research and deliberation, the Commission has withdrawn that provision from its recommendations to strengthen enforcement.

Contract management and administration resources are insufficient to conduct overseas-contingency operations

Contingency-contract management problems extend far beyond contract auditing within a single department. As previously established in Chapter 2, affected federal agencies do not have adequate and deployable contracting capabilities. They continue to struggle with an absence of strategic planning and the lack of a dedicated budget to support related human-resources and information-systems requirements. Significant monetary returns will be realized by investment in additional staff and resources to conduct contingency contracting.

Contractor business systems and access to contractor records are ineffectual

Following a Commission hearing and special report in 2009, Congress in the National Defense Authorization Act for FY 2011 authorized Defense to withhold payment to contractors with inadequate business systems as a means of protecting U.S. government interests and compelling contractor compliance. Still, the new rules under that Act cannot serve as a meaningful incentive unless payments are actually withheld upon the recommendation of auditors.

Significant monetary returns will be realized by investment in additional staff and resources to conduct contingency contracting.

Authorizing civilian agencies to take similar measures regarding payment withholds would promote a government-wide approach to addressing problems related to contractor business systems. Withholds in defense and civilian agencies alike would also motivate contractors to shift priorities and make necessary business-system investments to assure agencies that contractor costs are accurate and reliable.

Access to contractor records and review of contractor business systems can also serve the government well in overseeing contractors, an always-challenging task in the chaos of contingencies.

In addition, expanding access to contractor records will help ensure that government audits are performed more efficiently and effectively and are directed at areas of greatest risk to the government in contingencies. Auditors could use such information to reduce the amount of labor-intensive audit-testing required to accept contractor costs. Benefits would include reducing resource requirements for both government and industry, as well as reducing the potential for contract waste and fraud.

DCAA and DCMA are understaffed to support operations in Iraq and Afghanistan

The benefit of conducting contingency-contractor performance oversight more effectively was reported recently by the Defense Contract Audit Agency (DCAA): a net savings of $2.9 billion that equates to a return on investment of $5.20 for every $1 invested in the agency.

Civilian contractor, Al Asad Air Base, Iraq. (U.S. Marine Corps photo)

The current unaudited backlog stands at $558 billion, having risen sharply from $406 billion in only nine months. At current staffing levels, DCAA has reported that the backlog will "continue to grow virtually unchecked" and will exceed $1 trillion in 2016.[5]

DCAA reports that long delays in performing audits increase the difficulty of locating the documentation necessary to conduct incurred-cost audits and further postpones the recovery of any unjustified payments on behalf of the taxpayers. Contractors are also concerned by long delays as the burden falls on them to maintain and produce records covering many years, and complicates their own cash management because of potential future outlays that may result from long-overdue audits. Since the historical return on incurred cost audits ranges from 0.2 percent to 0.4 percent of total dollars audited, reducing the entire $558 billion backlog would save $1.1 billion to $2.2 billion.

At current staffing levels, DCAA has reported that the backlog will "continue to grow virtually unchecked" and will exceed $1 trillion in 2016.

A recent independent study by the Army Force Management Support Agency recommended that DCAA would need a total workforce of 6,250 by 2015 to accomplish its mission. Defense is committed to fund additional staff for DCAA by that date, which would bring its total workforce to 5,700 personnel, of which 5,100 would be auditors. These increases would help reduce the backlog by providing the additional auditors who would be needed in a contingency environment. Nevertheless, Defense has not funded these increases for fiscal year 2012;

5. Defense Contract Audit Agency Manpower Study, 9.

moreover, the contemplated increases still appear to be insufficient to meet DCAA's needs, and funding could be reduced as a result of any future cuts in the Defense budget.

State and USAID have well-documented requirements for additional contingency staff to perform program management, contract oversight, and related activities. They rely upon their existing resources and in some cases on DCAA and Defense Contract Management Agency (DCMA) for operational contract support.

DCMA needs more deployable administrative contracting officers, contract administrators, quality-assurance representatives, and other technical personnel to effectively meet their customers' requirements. Given the current environment, in which the career workforce is shrinking, it will be necessary to draw military and civilian contracting officers, contract specialists, cost and price analysts, and procurement attorneys from various acquisition commands and U.S.-based procurement organizations to fill critical slots overseas.

Executive agency and military leadership, with the support of Congress, must effectively address contingency contracting as a core function and provide the requisite management changes and funding support for all agencies participating in the national-security mission. The initiatives set forth in this chapter represent a substantial investment in capabilities for future operations for all affected agencies and organizations. To reach full effect, these changes should be made from a whole-of-government standpoint, increasing each element's ability to support the other. A piecemeal approach will result in piecemeal solutions that will not bring about meaningful change.

► RECOMMENDATION 13

Provide adequate staffing and resources, and establish procedures to protect the government's interests

- Strengthen authority to withhold contract payments for inadequate business systems.
- Amend access-to-records authority to permit broader government access to contractor records.
- Increase agencies' staff and resources to enable adequate management of all aspects of contingency contracting: financial management, acquisition planning, business-system reviews, source selection, incurred-cost audits, performance management, property management, contract payment, and contract close-outs.

Afghan contractors and U.S. Army Corps of Engineers representative, near Mazar-e-Sharif, Afghanistan. (U.S. Army photo)

Chapter 8

The way forward demands major reforms

The way forward demands major reforms

The United States was not prepared to go to war using contractors in Iraq and Afghanistan. As a result, tens of billions of dollars were lost to waste, fraud, and abuse.

Lulled by the quick success of the 1991 Gulf War and the Balkans deployments of the mid-'90s, we did not notice how great our reliance on contractors had become—or that some contractors themselves were so extensively involved in contract management.

Some members of the acquisition community and independent experts warned that the new pattern of heavy reliance could stress and break the contract management-and-oversight system operated by a depleted federal acquisition workforce.

The acquisition community, however, had no seat at the table in deciding whether to use contractors, and no voice in budgetary debates on how big the federal acquisition workforce should be to manage the hundreds of billions of dollars in contracts for which it was responsible. No serious reforms or resource commitments were made before the Iraq and Afghanistan contingencies laid bare the weakness.

Much of the waste seen in Iraq and Afghanistan was preventable. Much that is occurring now can still be mitigated.

Nearly a decade later, the importance of reform in contingency contracting still remains insufficiently appreciated. Meanwhile, the combined force of budgetary pressures and war weariness threatens to push cost-control initiatives for contingency contracting into the background once again.

Much of the waste seen in Iraq and Afghanistan was preventable. Much that is occurring now can still be mitigated. And much that could occur in the future can be avoided. All it takes is the refusal to repeat mistakes, and the will to act.

Reform will require resources and sustained effort

Despite some improvements in structures and practices, major problems exist, and much work remains to be done. The Commission's recommendations detail that work. Making these recommendations a reality, however, requires a collaborative, dedicated, and sustained effort by all participants in the process—contractors, Congress, the White House, and Executive Branch agencies including the Departments of Defense and State, USAID, the Office of Management and Budget, and the National Security Council.

Each participant in the contingency-contracting universe must recognize and take seriously its responsibility for supporting, implementing, or abiding by the reform recommendations that the government adopts. Contractors must act on the premise that they will truly be held accountable for their performance. Departments and agencies must realize that they need to do a better job of selecting projects and programs, defining the work to be done, coordinating their efforts, and managing the contractors they engage.

U.S. Army interpreter, Afghan National Police officer, and contractors, Wardak province, Afghanistan. (U.S. Army photo)

The role of Congress is critical. The problems identified in this report will not fix themselves, and cannot be fixed for free, or even cheaply. It is not enough for Congress to say, "There are too many contractors," or "Some contractors are performing tasks reserved to the government," or "We need better oversight of contractors," or "We won't have another big contingency operation." Congress must direct and participate in serious reform.

Paying lip service to reform will not cure problems such as the Defense Contract Management Agency (DCMA) being under-staffed and at the mercy of temporary funding for many of its contract-management professionals. Nor will lip service help the Defense Contract Audit Agency (DCAA), whose backlog of incurred-cost contract audits has now grown to more than $550 billion and will require years of work to reduce even if hundreds of new auditors were hired.

Unless Congress provides money and issues mandates for improved planning, management, and oversight capabilities there will be no significant change or real savings in contingency contracting. Given the current outlook for a crisis in

the federal budget, the temptation will be powerful to postpone the investments needed to support contingency-contracting reform and to avoid making hard choices.

Congress must resist that temptation and recognize that preparedness for contingency contracting is as much a national-security priority as procuring weapons systems.

► RECOMMENDATION 14

Congress should provide or reallocate resources for contingency-contracting reform to cure or mitigate the numerous defects described by the Commission

Elements needed to be ready for the next contingency

The convergence of emergency responders in New York City and Washington after the 9/11 attacks, the speedy overthrow of the Taliban regime in Afghanistan that was harboring al Qaeda terror plotters, the response of U.S. military units to the Hurricane Katrina disaster, and other episodes in modern American history confirm that energy, ingenuity, and resolve can improvise solutions and cobble together working arrangements to tackle vast challenges.

Unfortunately, that ad hoc approach is costly, inefficient, and a threat to mission objectives. The Commission's work, reports by federal inspectors general, and congressional investigations have demonstrated that improvised arrangements risk duplication, gaps, delays, inadequate oversight, poor coordination, and threats to mission success that can carry harsh price tags in money and lives.

The United States has at all times since 1988 been involved in at least one overseas military deployment.

Considering that the United States has *at all times since 1988* been involved in at least one overseas military deployment (see Chapter 1), and that the country chronically faces unpredictable threats of national emergencies and international humanitarian disasters, the high cost of repeating ad hoc arrangements for contract support is unacceptable. In addition, a potentially large but hidden cost of recreating contingency-support arrangements is the risk that lessons learned and institutional memory will dissipate between contingencies—another problem that the Commission's recommendations address.

Enactment or adoption of Commission recommendations presented in previous reports or introduced in this report would provide the United States with a ready-to-roll capability to address new contingencies from the outset. This capability would ensure better contract management and oversight, promote better selection and coordination of agencies' efforts, and avoid a great deal of waste. The reform recommendations creating this capability include:

- giving recognition to "total force" doctrine by including clear contracting guidance in planning, training, exercises, doctrine, and in policy documents like Defense's Quadrennial Defense Review and State's Quadrennial Diplomacy and Development Review;
- requiring metrics for readiness and performance reports for Defense, State, and USAID unit preparedness;
- applying risk-based staffing assessments to determine organic agency resources needed to preserve core capabilities, including managing contractors;

U.S.–Iraqi patrol, Mosul, Iraq. (U.S. Navy photo)

- creating a trained, experienced, expandable, and deployable cadre for contingency acquisition-support functions;
- preparing more competitive contract vehicles and better enforce rules for contracting;
- establishing a senior federal position responsible for overall strategic direction, mission alignments, and interagency coordination for contingency operations to provide a whole-of-government approach;
- establishing senior agency positions responsible for contingency contracting;
- elevating the role of contingency contracting by establishing a new J10 (operational contract support) directorate headed by a flag officer on the Joint Staff; and
- creating a permanent office of inspector general for contingency operations whose staff would be ready to deploy at the onset of a contingency, and who would monitor agencies' planning and preparedness activities between contingencies.

The combined effect of these measures would be to create a pre-packaged set of capabilities so that, for example, plans for implementing operational contract support could be quickly adapted to local conditions, and so that contract managers and auditors would arrive in theater with operational personnel and contractors, not months or years later.

A forcing function is needed

The Commission has offered a number of recommendations in this final report, as well as in its February 2011 second interim report and five special reports. Agencies have adopted some and are considering others. Lawmakers have supported a few, in whole or part, in proposed legislation. These are encouraging signs.

But the breadth and depth of problems in contingency contracting dash any hope of quick and easy fixes. Some needed reforms will take years of effort to arrange and implement—a time span that not only exceeds the life of this Commission, but probably the terms in office of many current decision makers.

U.S. Army soldier with contractors, near Baghdad, Iraq. (Defense photo)

Some agencies have recognized the need to document the lessons of Afghanistan and Iraq, and to make changes in the aspects of their doctrine and operations that they can influence. The U.S. Army and the U.S. Air Force have active lessons-learned centers, and USAID has taken some useful steps as well. The Army, for instance, has set up a Peacekeeping and Stability Operations Institute at the Army War College and an Irregular Warfare Fusion Cell at its Combined Arms Center, among other initiatives. The challenge of preserving lessons learned and advocating change could also benefit from sustained attention from a federally funded research institute, an independent think tank, or similar entity.

The Center for Complex Operations at the National Defense University could be another logical nexus of thinking and advocacy for contingency-contracting reform. It has already published useful examinations of the impact of Provincial Reconstruction Teams, implications of the end of the nation-state monopoly on war, and other topics bearing on contingency operations.

These initiatives are helpful and encouraging. Nonetheless, the main responsibility for driving change lies with the leadership of Congress and the Executive Branch. A forcing function is needed to ensure widespread and effective adoption of contingency-contracting reform.

Without a forcing function, agency inertia, resistance to change, sporadic attention, personnel turnover, and a lack of sustained and focused leadership will weave a heavy blanket that smothers progress. Effective implementation of reform requires establishing a method for periodic reporting on the status of Commission recommendations to keep the reform agenda in decision makers' field of vision.

► RECOMMENDATION 15

Congress should enact legislation requiring regular assessment and reporting of agencies' progress in implementing reform recommendations

The legislation should require:

- The Secretaries of Defense and State and the Administrator of USAID to submit reports detailing their plans for implementation of Commission recommendations, commencing 180 days from enactment of the legislation, with annual reporting thereafter.
- Agencies' reports shall be submitted to congressional committees of jurisdiction (armed services, homeland security, government oversight, and foreign affairs); to the inspectors general of the Departments of Defense and State, and of USAID; and to the officials holding the proposed new positions at OMB/NSC and the permanent inspector general for contingency operations, all of whom would be required to review and validate the reports.
- Reporting requirements that include:
  - actions taken or planned to implement recommendations, including an implementation schedule with milestones and assignments of responsibility;
  - explanations for non-implementation of recommendations, including counter-measures for barriers to implementation; and
  - evaluation within 120 days by the Comptroller General of the United States and agency inspectors general (and the permanent contingency inspector general when available) of the agencies' reports and their compliance with requirements.

The government cannot afford denial and complacency

American and allied involvement in hostilities in Iraq and Afghanistan is declining. But it would be the height of folly to suppose that the many documented difficulties with contingency contracting will decline and disappear as that involvement ends. If anything, as troop numbers decline, the number of contractors may *increase*, at least in the short term, for it may be many years—if ever—before the United States fully withdraws from operations in Iraq and Afghanistan.

Even if hostile forces, whether insurgents or terrorists, were to lapse into a prolonged period of inactivity, mass-casualty natural or humanitarian disasters such as floods, hurricanes, or earthquakes in the United States or elsewhere will surely require new contingency-contract support.

Still, the prospect of purely military contingencies recurring with little warning cannot be discounted or dismissed. The unexpected and swift development in spring 2011 of a campaign of United States and NATO suppression of Libyan government attacks on civilians is a recent case in point. It illustrates how quickly unanticipated responses that include contractor support may be required. Unrest in Somalia or Yemen, or the aftermath of the "Arab Spring" popular uprisings of 2011 could also present U.S. decision makers with conditions requiring consideration of a contingency response.

The United States will not be able to conduct large or sustained contingency operations without major contractor support.

The United States will not be able to conduct large or sustained contingency operations without major contractor support. Avoiding a repetition of the waste, fraud, and abuse seen in Iraq and Afghanistan requires either a great increase in agencies' ability to perform core tasks and to manage contracts effectively, or a disciplined reconsideration of plans and commitments that would require intense use of contractors.

Failure by Congress and the Executive Branch to heed a decade's lessons on contingency contracting from Iraq and Afghanistan will not avert new contingencies. It will only ensure that additional billions of dollars of waste will occur and that U.S. objectives and standing in the world will suffer. Worse still, lives will be lost because of waste and mismanagement.

The nation's security demands nothing less than sweeping reform.

U.S. soldiers with Provincial Reconstruction Team Kapisa and local contractors, near Durnama village, Afghanistan. (U.S. Air Force photo)

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Commissioners at April 19, 2010 hearing. Left to right: Robert Henke, Grant Green, Dov Zakheim, Christopher Shays, Michael Thibault, Katherine Schinasi, Clark Kent Ervin, Charles Tiefer.

Appendixes

Appendix A
Commission recommendations

In addition to this final report, the Commission's second interim report, "At what risk? Correcting over-reliance on contractors in contingency operations," and its five special reports included recommendations for improving contingency contracting.

Summaries of these reports are found in Appendix C. All Commission reports are available on its public website, www.wartimecontracting.gov.

An overview of all Commission recommendations follows. Note that some of the recommendations made in the second interim report are repeated in this final report.

FINAL REPORT

Transforming Wartime Contracting: Controlling costs, reducing risks

The key recommendations in the Commission's final report, arranged by chapter, are:

RECOMMENDATIONS

Chapter 1. Agencies over-rely on contractors for contingency operations

This chapter contains no recommendations.

Chapter 2. 'Inherently governmental' rules do not guide appropriate use of contractors in contingencies

1. Use risk factors in deciding whether to contract in contingencies
2. Develop deployable cadres for acquisition management and contractor oversight
3. Phase out use of private security contractors for certain functions
4. Improve interagency coordination and guidance for using security contractors in contingency operations

Chapter 3. Inattention to contingency contracting leads to massive waste, fraud, and abuse

This chapter contains no recommendations.

Chapter 4. Looming sustainment costs risk massive new waste

5. Take actions to mitigate the threat of additional waste from unsustainability

Chapter 5. Agencies have not institutionalized acquisition as a core function

6. Elevate the positions and expand the authority of civilian officials responsible for contingency contracting at Defense, State, and USAID
7. Elevate and expand the authority of military officials responsible for contingency contracting on the Joint Staff, the combatant commanders' staffs, and in the military services

Chapter 6. Agency structures and authorities prevent effective interagency coordination

8. Establish a new, dual-hatted senior position at OMB and the NSC staff to provide oversight and strategic direction
9. Create a permanent office of inspector general for contingency operations

Chapter 7. Contract competition, management, and enforcement are ineffective

10. Set and meet annual increases in competition goals for contingency contracts
11. Improve contractor performance-data recording and use
12. Strengthen enforcement tools
13. Provide adequate staffing and resources, and establish procedures to protect the government's interests

Chapter 8. The way forward demands major reforms

14. Congress should provide or reallocate resources for contingency-contracting reform to cure or mitigate the numerous defects described by the Commission
15. Congress should enact legislation requiring regular assessment and reporting of agencies' progress in implementing reform recommendations

SECOND INTERIM REPORT

At what risk? Correcting over-reliance on contractors in contingency operations

ISSUED FEBRUARY 24, 2011

In this report, the Commission made recommendations to address the underlying causes of poor outcomes in contracting and to institutionalize changes for lasting effect.

Section I. Contractors have become the default option

1. Grow agencies' organic capacity
2. Develop a deployable contingency-acquisition cadre
3. Restrict reliance on contractors for security

Section II. Agencies do not treat contingency contracting as a core function

4. Designate officials with responsibility for cost consciousness
5. Measure senior military and civilian officials' efforts to manage contractors and control costs
6. Integrate operational contract support into plans, education, and exercises
7. Include operational contract support in readiness and performance reporting
8. Establish a contingency-contracting directorate in the Offices of the Joint Chiefs of Staff
9. Establish offices of contingency contracting at Defense, State, and USAID
10. Direct the Army's Installation Management Command to manage bases and base-support contractors in contingencies

Section III. Interagency organizational structures do not support contingency operations

11. Establish a new, dual-hatted position at the OMB and the NSC to provide oversight and strategic direction for contingency operations
12. Create a permanent office of inspector general for contingency operations
13. Establish interagency certification requirements and training curricula for contingency acquisition personnel
14. Create a committee to integrate the individual authorities, resources, and oversight of contingency operations

Section IV. Policies and practices hamper contingency competition

15. Require competition reporting and goals for contingency contracts
16. Break out and compete major subcontract requirements from omnibus support contracts
17. Limit contingency task-order performance periods
18. Reduce one-offer competitions
19. Expand competition when only one task-order offer is received
20. Allow contractors to respond to, but not appeal, agency performance assessments

21. Align past-performance assessments with contractor proposals

22. Require agencies to certify use of the past-performance database

Section V. Enforcement policies and controls fail to ensure contractor accountability

23. Require a written rationale for not pursuing a proposed suspension or debarment

24. Increase use of suspensions and debarments

25. Revise regulations to lower procedural barriers to contingency suspensions and debarments

26. Make consent to U.S. civil jurisdiction a condition of contract award

27. Clarify U.S. criminal jurisdiction over civilian-agency contractors operating overseas

28. Establish a permanent organization to investigate international-contract corruption

29. Expand the power of inspectors general

30. Raise the ceiling for access to the Program Fraud Civil Remedies Act

31. Strengthen authority to withhold contract payments for inadequate business systems

32. Amend access-to-records authority to permit broader government access to contractor records

Recommendations in special reports

SPECIAL REPORT 1

Defense agencies must improve their oversight of contractor business systems to reduce waste, fraud, and abuse

ISSUED SEPTEMBER 21, 2009

The Commission learned that unreliable data from business systems produced billions of dollars in contingency-contract costs that government auditors often could not verify. The Commission recommended that:

1. DoD needs to ensure that government speaks with one voice to contractors
2. DoD needs to improve government accountability by rapidly resolving agency conflicts on business systems
3. Defense Contract Audit Agency (DCAA) needs to expand its audit reports to go beyond rendering a pass/fail opinion
4. Defense Contract Management Agency (DCMA) needs to develop an effective process that includes aggressive compliance enforcement
5. DCAA and DCMA need to request additional resources and prioritize contingency-contractor oversight workload

SPECIAL REPORT 2

Lowest-priced security not good enough for war-zone embassies

ISSUED OCTOBER 1, 2009

The Commission urged that Congress change a statutory restriction on the State Department's ability to choose security contractors for its overseas Foreign Service buildings. The Commission recommended that Congress:

1. Amend the law to permit best-value competition

SPECIAL REPORT 3

Better planning for Defense-to-State transition in Iraq needed to avoid mistakes and waste

ISSUED JULY 12, 2010

The Commission found that planning for transitioning vital functions in Iraq from the Department of Defense to the Department of State was not adequate for effective coordination of billions of dollars in new contracts, and recommended that:

1. The Departments of Defense and State accelerate, intensify, and better integrate their joint planning for the transition in Iraq
2. All levels of Defense and State immediately initiate and complete planning with the Government of Iraq to address critical security functions now performed by Defense
3. State use, on a reimbursable basis, DoD's LOGCAP IV contract
4. Congress immediately provide additional resources to State to support its increased contracting costs and personnel needs

SPECIAL REPORT 4

Iraq—a forgotten mission?
The United States needs to sustain a diplomatic presence to preserve gains and avoid waste as the U.S. military leaves Iraq

ISSUED MARCH 1, 2011

The Commission recommended that:

1. Congress ensure adequate funding to sustain State Department operations in critical areas of Iraq, including its greatly increased need for operational contract support
2. The Department of State expand its organic capability to meet heightened needs for acquisition personnel, contract management, and contractor oversight
3. The Secretaries of State and Defense extend and intensify their collaborative planning for the transition, including executing an agreement to establish a single, senior-level coordinator and decision-maker to guide progress and promptly address major issues whose resolution may exceed the authorities of departmental working groups

SPECIAL REPORT 5

Sustainability: hidden costs risk new waste
Preparations for ending U.S. military presence and contracting activities in Iraq and Afghanistan must include action to avoid waste from host nations' inability to operate and maintain projects and programs

ISSUED JUNE 3, 2011

The Commission recommended that:

1. Officials at the Department of Defense, the Department of State, and USAID examine both completed and current projects for risk of sustainment failure and pursue all reasonable strategies to mitigate risks
2. Officials ensure that any *new* requirements and acquisition strategies regarding contingency contracts for projects or services to be handed over to a host nation include a detailed assessment of that host nation's ability and will to meet the out-year costs essential for long-term success
3. Officials take appropriate action to cancel or redesign projects or programs that have little or no realistic prospect for achieving sustainability
4. Officials report to Congress by December 31, 2011, and annually thereafter, their analysis of current and proposed projects and their planned actions for mitigating sustainability risks

Appendix B
Authorizing statute and extension

NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) FOR FISCAL YEAR 2008

[110th Congress, Public Law 110-181, Section 841 (January 28, 2008)]

SEC. 841. COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on Wartime Contracting" (in this section referred to as the "Commission").

(b) MEMBERSHIP MATTERS.—

(1) MEMBERSHIP.—The Commission shall be composed of 8 members, as follows:

(A) 2 members shall be appointed by the majority leader of the Senate, in consultation with the Chairmen of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate.

(B) 2 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen of the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.

(C) 1 member shall be appointed by the minority leader of the Senate, in consultation with the Ranking Minority Members of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate.

(D) 1 member shall be appointed by the minority leader of the House of Representatives, in consultation with the Ranking Minority Member of the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.

(E) 2 members shall be appointed by the President, in consultation with the Secretary of Defense and the Secretary of State.

(2) DEADLINE FOR APPOINTMENTS.—All appointments to the Commission shall be made not later than 120 days after the date of the enactment of this Act.

(3) CO-CHAIRMEN.—The Commission shall have two co-chairmen, including—

(A) a co-chairman who shall be a member of the Commission jointly designated by the Speaker of the House of Representatives and the majority leader of the Senate; and

(B) a co-chairman who shall be a member of the Commission jointly designated by the minority leader of the House of Representatives and the minority leader of the Senate.

(4) VACANCY.—In the event of a vacancy in a seat on the Commission, the individual appointed to fill the vacant seat shall be—

(A) appointed by the same officer (or the officer's successor) who made the appointment to the seat when the Commission was first established; and

(B) if the officer in subparagraph (A) is of a party other than the party of the officer who made the appointment to the seat when the Commission was first established, chosen in consultation with the senior officers in the Senate and the

House of Representatives of the party which is the party of the officer who made the appointment to the seat when the Commission was first established.

(c) DUTIES.—

(1) GENERAL DUTIES.—The Commission shall study the following matters:

(A) Federal agency contracting for the reconstruction of Iraq and Afghanistan.

(B) Federal agency contracting for the logistical support of coalition forces operating in Iraq and Afghanistan.

(C) Federal agency contracting for the performance of security functions in Iraq and Afghanistan.

(2) SCOPE OF CONTRACTING COVERED.—The Federal agency contracting covered by this subsection includes contracts entered into both in the United States and abroad for the performance of activities described in paragraph (1).

(3) PARTICULAR DUTIES.—In carrying out the study under this subsection, the Commission shall assess—

(A) the extent of the reliance of the Federal Government on contractors to perform functions (including security functions) in Iraq and Afghanistan and the impact of this reliance on the achievement of the objectives of the United States;

(B) the performance exhibited by Federal contractors for the contracts under review pursuant to paragraph (1), and the mechanisms used to evaluate contractor performance;

(C) the extent of waste, fraud, and abuse under such contracts;

(D) the extent to which those responsible for such waste, fraud, and abuse have been held financially or legally accountable;

(E) the appropriateness of the organizational structure, policies, practices, and resources of the Department of Defense and the Department of State for handling program management and contracting for the programs and contracts under review pursuant to paragraph (1);

(F) the extent to which contractors under such contracts have engaged in the misuse of force or have used force in a manner inconsistent with the objectives of the operational field commander; and

(G) the extent of potential violations of the laws of war, Federal law, or other applicable legal standards by contractors under such contracts.

(d) REPORTS.—

(1) INTERIM REPORT.—On March 1, 2009, the Commission shall submit to Congress an interim report on the study carried out under subsection (c), including the results and findings of the study as of that date.

(2) OTHER REPORTS.—The Commission may from time to time submit to Congress such other reports on the study carried out under subsection (c) as the Commission considers appropriate.

(3) FINAL REPORT.—Not later than two years after the date of the appointment of all of the members of the Commission under subsection (b), the Commission shall submit to Congress a final report on the study carried out under subsection (c). The report shall-

(A) include the findings of the Commission;

(B) identify lessons learned relating to contingency program management and contingency contracting covered by the study; and

(C) include specific recommendations for improvements to be made in—

(i) the process for defining requirements and developing statements of work for contracts in contingency contracting;

(ii) the process for awarding contracts and task or delivery orders in contingency contracting;

(iii) the process for contingency program management;

(iv) the process for identifying, addressing, and providing accountability for waste, fraud, and abuse in contingency contracting;

(v) the process for determining which functions are inherently governmental and which functions are appropriate for performance by contractors in a contingency operation (including during combat operations), especially whether providing security in an area of combat operations is inherently governmental;

(vi) the organizational structure, resources, policies, and practices of the Department of Defense and the Department of State for performing contingency program management; and

(vii) the process by which roles and responsibilities with respect to management and oversight of contracts in contingency contracting are distributed among the various departments and agencies of the Federal Government, and interagency coordination and communication mechanisms associated with contingency contracting.

(e) OTHER POWERS AND AUTHORITIES.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any portion thereof, may, for the purpose of carrying out this section—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths (provided that the quorum for a hearing shall be three members of the Commission); and

(B) provide for the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents; as the Commission, or such portion thereof, may determine advisable.

(2) INABILITY TO OBTAIN DOCUMENTS OR TESTIMONY.—In the event the Commission is unable to obtain testimony or documents needed to conduct its work, the Commission shall notify the committees of Congress of jurisdiction and appropriate investigative authorities.

(3) ACCESS TO INFORMATION.—The Commission may secure directly from the Department of Defense and any other department or agency of the Federal Government any information or assistance that the Commission considers necessary to enable the Commission to carry out the requirements of this section. Upon request of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission. Whenever information or assistance requested by the Commission is unreasonably refused or not provided, the Commission shall report the circumstances to Congress without delay.

(4) PERSONNEL.—The Commission shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section, except to the extent that such conditions would be inconsistent with the requirements of this section.

(5) DETAILEES.—Any employee of the Federal Government may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(6) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(7) VIOLATIONS OF LAW.—

(A) REFERRAL TO ATTORNEY GENERAL.—The Commission may refer to the Attorney General any violation or potential violation of law identified by the Commission in carrying out its duties under this section.

(B) REPORTS ON RESULTS OF REFERRAL.—The Attorney General shall submit to Congress a report on each prosecution, conviction, resolution, or other disposition that results from a referral made under this subparagraph.

(f) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date of the submittal of its final report under subsection (d)(3).

(g) DEFINITIONS.—In this section:

(1) CONTINGENCY CONTRACTING.—The term "contingency contracting" means all stages of the process of acquiring property or services during a contingency operation.

(2) CONTINGENCY OPERATION.—The term "contingency operation" has the meaning given that term in section 101 of title 10, United States Code.

(3) CONTINGENCY PROGRAM MANAGEMENT.—The term "contingency program management" means the process of planning, organizing, staffing, controlling, and leading the combined efforts of participating personnel for the management of a specific acquisition program or programs during contingency operations.

NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) FOR FISCAL YEAR 2010

[111th Congress, Public Law 111-84, Section 822 (October 28, 2009)]

SEC. 822. EXTENSION AND ENHANCEMENT OF AUTHORITIES ON THE COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN.

(a) DATE OF FINAL REPORT.—Subsection (d)(3) of section 841 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 230) is amended by striking `two years' and inserting "three years".

(b) ASSISTANCE FROM FEDERAL AGENCIES.—Such section is further amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

(f) Assistance From Federal Agencies—

(1) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall provide to the Commission administrative support for the performance of the Commission's functions in carrying out the requirements of this section.

(2) TRAVEL AND LODGING IN COMBAT THEATERS.—The administrative support provided the Commission under paragraph (1) shall include travel and lodging undertaken in combat theaters, which support shall be provided through funds made available for that purpose through the Washington Headquarters Services or on a non-reimbursable basis, as appropriate.

(3) OTHER DEPARTMENTS AND AGENCIES.—In addition to the support required by paragraph (1), any department or agency of the Federal Government may provide to the Commission such services, funds, facilities, staff, and other support services for the performance of the Commission's functions as the head of such department or agency considers advisable, or as may otherwise be authorized by law.

Appendix C
Summary of Commission reports

In addition to this final report, the Commission has issued two interim reports to Congress and five special reports. Each special report addresses an issue that the Commission believed required immediate attention.

All Commission reports are available on its public website, www.wartimecontracting.gov. Capsule summaries follow.

FIRST INTERIM REPORT
At what cost? Contingency contracting in Iraq and Afghanistan

ISSUED JUNE 10, 2009

This report described the Commission's operations during its first year, identified areas for research, and flagged eight issues of immediate concern for lawmakers to consider. The eight issues included the risk of potential waste to be incurred by the drawdown of U.S. forces in Iraq; the critical shortage of qualified contract-management personnel in theater; the lack of competition in the transition from LOGCAP III to IV; inadequate contractor business systems; the need for greater accountability in the use of subcontractors; the failure to apply lessons learned in Iraq to Afghanistan; the lag in plans to establish a Defense Department contracting command in Afghanistan; and the need to ensure that contractors providing security for operating bases are well trained and equipped.

SECOND INTERIM REPORT
At what risk? Correcting over-reliance on contractors in contingency operations

ISSUED FEBRUARY 24, 2011

In this report, the Commission made recommendations that it believed addressed the underlying causes of poor outcomes in contracting, and had the potential of institutionalizing changes for lasting effect. The recommendations included growing agencies' organic capacity; developing a deployable contingency-acquisition cadre; restricting reliance on contractors for security; and establishing a contingency-contracting directorate in the Office of the Joint Chiefs of Staff, as well as Offices of Contingency Contracting at Defense, State, and USAID.

Other major recommendations included asking the President and Congress, respectively, to establish a new, dual-hatted position at the Office of Management and Budget and the National Security Council to provide oversight and strategic direction for contingency operations, and create a permanent office of inspector general for contingency operations. Efforts to encourage competition were central to one set of recommendations. Finally, another set of recommendations focused on improving the suspension-and-debarment processes.

SPECIAL REPORT 1
Defense agencies must improve their oversight of contractor business systems to reduce waste, fraud, and abuse

ISSUED SEPTEMBER 21, 2009

At a hearing on August 11, 2009, the Commission learned that unreliable data from business systems produced billions of dollars in contingency-contract costs that government auditors often could not verify. The government's ability to detect contract cost errors and material misstatements was seriously impeded by contractors' inadequate internal controls over their business systems. Further,

the two primary government agencies involved, the Defense Contract Management Agency (DCMA) and the Defense Contract Audit Agency (DCAA), were not working together effectively to protect government interests.

The Commission recommended that: (1) Defense needs to ensure that government speaks with one voice to contractors; (2) Defense needs to improve government accountability by rapidly resolving agency conflicts on business systems; (3) DCAA needs to expand its audit reports to go beyond rendering a pass/fail opinion; (4) DCMA needs to develop an effective process that includes aggressive compliance enforcement; and (5) DCAA and DCMA need to request additional resources and prioritize contingency-contractor oversight workload.

SPECIAL REPORT 2

Lowest-priced security not good enough for war-zone embassies

ISSUED OCTOBER 1, 2009

This report urged that Congress change a statutory restriction on the State Department's ability to choose security contractors for its overseas Foreign Service buildings based on any considerations other than lowest price and technical acceptability (LPTA). The Commission believed that the unintended consequences of the mandate were illustrated in poor contract performance and widely publicized misconduct by guards for the embassy in Kabul. The State Department is on record saying that contractor performance endangered the embassy and its personnel. The report urged allowing use of the "best-value" standard for evaluating contractors' offers. (Congress responded by enacting a temporary lifting of the LPTA mandate in Iraq and Afghanistan.)

SPECIAL REPORT 3

Better planning for Defense-to-State transition in Iraq needed to avoid mistakes and waste

ISSUED JULY 12, 2010

Planning for transitioning vital functions in Iraq from the Department of Defense to the Department of State was not adequate for effective coordination of billions of dollars in new contracts, and risked both financial waste and undermining U.S. policy objectives.

The Commission recommended that Defense and State accelerate, intensify, and better integrate their joint planning for the transition in Iraq; that all levels of Defense and State immediately initiate and complete planning with the Government of Iraq to address critical security functions now performed by Defense; that State use, on a reimbursable basis, Defense's LOGCAP IV contract; and that Congress immediately provide additional resources to State to support its increased contracting costs and personnel needs.

SPECIAL REPORT 4

Iraq—a forgotten mission? The United States needs to sustain a diplomatic presence to preserve gains and avoid waste as the U.S. military leaves Iraq

ISSUED MARCH 1, 2011

State's Iraq mission after 2011 will require using thousands more contractors. Yet State is short of needed funding and program-management staff. Very little time remains for State to develop requirements, conduct negotiations, and award competitive contracts for work that must begin at

once. Inadequate support risks waste of funds and failure for U.S. policy objectives in Iraq and the region.

The Commission recommended that Congress ensure adequate funding to sustain State's operations in critical areas of Iraq, including the Department's greatly increased needs for operational contract support. The Commission recommended that the State Department expand its organic capability to meet heightened needs for acquisition personnel, contract management, and contractor oversight; and the Secretaries of State and Defense extend and intensify their collaborative planning for the transition, including executing an agreement to establish a single, senior-level coordinator and decision-maker to guide progress and promptly address major issues whose resolution may exceed the authorities of departmental working groups.

SPECIAL REPORT 5

Sustainability: hidden costs risk new waste
Preparations for ending U.S. military presence and contracting activities in Iraq and Afghanistan must include action to avoid waste from host nations' inability to operate and maintain projects and programs

ISSUED JUNE 3, 2011

Billions of U.S. taxpayers' dollars will be wasted in Iraq and Afghanistan if the host-nation governments cannot take over the operation, maintenance, and security of efforts undertaken to reconstruct, stabilize, and develop those countries. Potential waste from unsustainable projects exceeds $11 billion for just one program in Afghanistan—facilities construction for the national security forces. But time is growing short. Without prompt and decisive action, the biggest waste in Iraq and Afghanistan may be yet to come.

The Commission recommended that officials at Defense, State, and USAID examine both completed and current projects for risk of sustainment failure and pursue all reasonable strategies to mitigate risks; that officials ensure that any *new* requirements and acquisition strategies regarding contingency contracts for projects or services to be handed over to a host nation include a detailed assessment of the host nation's ability and commitment to meet the out-year costs essential for long-term success; that officials take appropriate action to cancel or redesign projects or programs that have little or no realistic prospect for achieving sustainability; and that officials report to Congress by December 31, 2011, and annually thereafter, their analysis of current and proposed projects and their planned actions for mitigating sustainability risks.

Appendix D
Hearings, travel, and meetings

Hearings

The Commission conducted 25 public hearings on Capitol Hill on a range of contingency-contracting issues, hearing sworn testimony from and conducting discussions with witnesses from Defense, State, and USAID, including acquisition and oversight-agency officials, as well as high-level administrators from these and other federal agencies. Other hearings featured contractors, scholars, and experts from think tanks. In addition, Commissioners appeared as witnesses at three congressional hearings.

2009 Commission hearings

February 2: Lessons from the inspectors general: improving wartime contracting

Panel 1: Senator James Webb, Senator Claire McCaskill, and Senator Susan Collins

Panel 2: Special Inspector General for Iraq Reconstruction

Panel 3: Inspectors general of Defense, State, and USAID

May 4: LOGCAP: Support-contracting challenges in Iraq and Afghanistan

Panel: Director, U.S. Army Contracting Command; Director, Defense Contract Management Agency; Director, Defense Contract Audit Agency; LOGCAP Program Manager, U.S. Army Logistics Civil Augmentation Program Office

August 11: Contractor business systems

Panel 1: Executive Director, Defense Contract Management Agency; Director, Defense Contract Audit Agency; Executive Director, U.S. Army Contracting Command

Panel 2: President and CEO, DynCorp International LLC; Executive Director of Compliance, Fluor Corporation's Government Group; Senior Vice President of Compliance, KBR

August 12: Linguist support services

Panel 1: Director, Defense Contract Audit Agency; Deputy Director of Contracting, U.S. Army Intelligence Security Command

Panel 2: General Manager, Global Linguist Solutions, LLC; Vice President, Northrop Grumman Technical Services; General Counsel, L-3 Communications Services Group

September 14: State Department oversight and contractor-employee conduct

Panel 1: Under Secretary of State for Management

Panel 2: A private citizen; Executive Director, Project on Government Oversight

Panel 3: President, International Peace Operations Association; President and CEO, DynCorp International LLC; Vice President of Homeland and International Security Services, Wackenhut Services, Inc.

November 2: Counting contractors: where are they and what are they doing?

Panel 1: Deputy J-4, Department of Defense, U.S. Central Command; a director, Government Accountability Office; Assistant Deputy Under Secretary of Defense for Program Support

Panel 2: a director, Government Accountability Office; Vice Director for Logistics, Joint Staff; Executive Director, U.S. Army Logistics Civil Augmentation Program Office

Panel 3: Acting Deputy, Defense Procurement and Acquisition Policy; Director, Defense Contract Management Agency; Director, Defense Contract Audit Agency

December 18: Contractor training of Afghan National Security Forces

Panel 1: Assistant Inspector General for Special Plans and Operations, Department of Defense

Panel 2: Former Commanding General, Combined Security Transition Command-Afghanistan; Assistant Secretary of State for International Narcotics and Law Enforcement; Program Executive, Department of Defense Counter Narcoterrorism Technology Program Office

Panel 3: Vice President and Program Manager, DynCorp International LLC; Executive Vice President of Contracts and Sales, Xe Services LLC (formerly Blackwater Worldwide); Program Manager, MPRI, a division of L-3 Communications

2010 Commission hearings

February 22: An urgent need: coordinating reconstruction and stabilization in contingency operations

Panel 1: Special Inspector General for Iraq Reconstruction; Special Inspector General for Afghanistan Reconstruction

Panel 2: Director, U.S. Institute of Peace; Senior Vice President, International Crisis Group; Senior Political Scientist, RAND Corporation

March 1: An urgent need: coordinating reconstruction and stabilization in contingency operations, continued

Panel: Executive Director of the Afghanistan-Pakistan Task Force, U.S. Agency for International Development; Coordinator for Reconstruction and Stabilization, Department of State; Deputy Assistant Secretary, Department of Defense

March 29: Rightsizing and managing contractors during the Iraq drawdown

Panel 1: Deputy Commanding General, U.S. Army Materiel Command; Director, Defense Contract Audit Agency; Executive Director, U.S. Army Rock Island Contracting Center

Panel 2: Vice President of Operations, KBR

April 19: Oversight of service contracts

Panel 1: Director, Defense Procurement and Acquisition Policy; Principal Military Deputy to the Assistant Secretary of the Army for Acquisition, Logistics, and Technology; Deputy Assistant Secretary of the Army for Procurement

Panel 2: Senior Vice President, CACI International, Inc.; Chief Operating Officer, AECOM Government Services

May 24: How good is our system for curbing contract waste, fraud, and abuse?

Panel 1: Assistant Inspector General, Special Inspector General for Afghanistan Reconstruction; Deputy Inspector General, Special Inspector General for Iraq Reconstruction; Assistant Director, Criminal Investigative Division of the Federal Bureau of Investigation; Deputy Inspector General for Investigations, Defense Criminal Investigative Service

Panel 2: Inspector General, U.S. Agency for International Development; Deputy Inspector General for Auditing, Department of Defense; Deputy Inspector General, Department of State

June 18: Are private security contractors performing inherently governmental functions?

Panel: President, Jefferson Solutions; Professor and Director of the Rohatyn Center for International Affairs, Middlebury College; President and CEO, Professional Services Council; Executive Director, Project on Government Oversight; Professor and Director of the Center for Research on International and Global Studies, University of California, Irvine; President, Center for a New American Security

June 21: Private security contractors in Iraq: where are we going?

Panel 1: Assistant Deputy Under Secretary of Defense for Program Support; Deputy Assistant Secretary of the Army for Procurement; Deputy Assistant Secretary for International Programs, Department of State; Chief, International Security Programs Division, Office of Security, U.S. Agency for International Development; Director, Office of Security, U.S. Agency for International Development

Panel 2: Vice President and Program Manager of Civilian Police Programs, DynCorp International LLC; President, Aegis Defense Services LLC; Director and CEO, Triple Canopy, Inc.

July 12: Total force policy, the Quadrennial Defense Review, and other Defense and operational planning: why does planning for contractors continue to lag?

Panel: Deputy Under Secretary of Defense for Strategy, Plans, and Forces; Director for Logistics, Joint Staff; Director of Requirements, Office of Secretary of Defense for Personnel and Readiness; Assistant Deputy Under Secretary of Defense for Program Support

July 26: Subcontracting: who's minding the store?

Panel 1: Deputy Assistant Secretary of the Army for Procurement; Director, Defense Contract Audit Agency; Director, Acquisition Management, Department of State; Acting Assistant Administrator for Management, U.S. Agency for International Development

Panel 2: Global Director Procurement and Supply Management, KBR; Vice President and Government Business Executive, Fluor Corporation; Senior Vice President, Business Administration, DynCorp International LLC; CEO, Mission Essential Personnel, LLC

Panel 3: President, Government Facilities Infrastructure, CH2M HILL Constructors, Inc.; Manager and Ethics Committee Director, Tamimi Global Company, Ltd; CEO, Symbion Power LLC; COO, McNeil Technologies, Inc.; CFO, The Diplomat Group LLC; President and CEO, Torres Advanced Enterprise Solutions, LLC

September 16: The contingency acquisition workforce: what is needed and how do we get there?

Panel 1: Professor, Center for Public Policy and Private Enterprise, School of Public Policy, University of Maryland; Administrator, Office of Federal Procurement Policy; Deputy Associate Director for Employee Services, Office of Personnel Management; Acting Deputy Under Secretary of Defense for Civilian Personnel Policy; Acting President, Defense Acquisition University

Panel 2: Director, Defense Contract Management Agency; Director, Defense Contract Audit Agency; Principal Military Deputy to the Assistant Secretary of the Army for Acquisition, Logistics, and Technology; Military Deputy to the Assistant Secretary of the Air Force for Acquisition; Commanding General, U.S. Army Corps of Engineers; Executive Director, U.S. Army Contracting Command

2011 Commission hearings

January 24: Recurring problems in Afghan construction

Panel 1: Special Inspector General for Afghanistan Reconstruction

Panel 2: Deputy Commanding General, Military and International Operations, U.S. Army Corps of Engineers; Deputy Assistant Administrator, Afghanistan Pakistan Task Force, U.S. Agency for International Development; Deputy Director, Air Force Center for Engineering and the Environment; Principal Deputy Assistant Secretary, International Narcotics and Law Enforcement Affairs, Department of State

February 14: Recurring problems in Afghan construction, continued

Panel: President, Government, Environmental & Nuclear Division, CH2M HILL Constructors, Inc.; Executive Vice President, AMEC Earth and Environmental, Inc.; President, Black & Veatch Special Projects Corporation; Regional Director, United Nations Office for Project Services

February 28: Ensuring contractor accountability: past performance and suspensions and debarments

Panel 1: Commander, Defense Contract Management Agency, International; Deputy Inspector General for USAID; Commanding Officer, Naval Sea Logistics Center; General Counsel, Project on Government Oversight

Panel 2: Administrator, Office of Federal Procurement Policy; Deputy Director, Contingency Contracting and Acquisition Policy, Defense Procurement Acquisition Policy; Procurement Executive, Department of State; Chief Acquisition Officer, U.S. Agency for International Development; U.S. Navy Associate Counsel and Chair, Interagency Suspension and Debarment Committee; Director, Office of the Judge Advocate General, U.S. Army

March 28: Better buying power in Defense spending

Witness: Under Secretary of Defense for Acquisition, Technology, and Logistics

April 1: USAID plans for improved contracting performance

Witness: Administrator of U.S. Agency for International Development

April 11: Non-governmental organizations' lessons for contingencies

Panel: Country Manager, Catholic Relief Services; Vice President, International Rescue Committee; Regional Program Director for South Asia, Mercy Corps; Vice President, Save the Children; Director of Intergovernmental Affairs, U.S. Institute of Peace

April 25: Implementing improvements to Defense wartime contracting

Panel 1: Professor, Center for Public Policy and Private Enterprise, School of Public Policy, University of Maryland; Managing Director for Acquisition and Sourcing Management, Government Accountability Office

Panel 2: Special Inspector General for Iraq Reconstruction; Deputy Inspector General for Auditing, Department of Defense; Acting Special Inspector General for Afghanistan Reconstruction

June 6: State Department contracting, response to Commission recommendations, and transition effort in Iraq and Afghanistan

Witness: Under Secretary of State for Management

Travel

Commissioners, accompanied by professional staff, made numerous trips to Iraq, Afghanistan, and Kuwait over the last three years, as well as several trips to Europe and Canada. Our work in theater was supplemented by a "forward team"—two professional staff members based in Baghdad and two in Kabul serving as eyes and ears on the ground, coordinating travel in theater, and managing requests for information from our home office. In addition, the Commission traveled to numerous government venues, contractor locations, training centers, and think tanks throughout the United States.

Overseas trips

In overseas travel, the Commission focused on theater contracting issues, construction projects, organizational alignment and structure, requirements generation, interagency coordination, and lessons learned. The Commission also traveled to NATO and coalition-partner countries to learn about best practices and issues those governments faced similar to those of the United States in managing contracts in a contingency environment.

2008

December 2–8: Afghanistan and Iraq

2009

March 30–April 11: Afghanistan and Iraq

June 14–19: Kuwait and Iraq

July 19–August 1: Iraq and Kuwait

August 23–September 2: Afghanistan

October 30–November 6: Kuwait and Iraq

November 30–December 8: Afghanistan

December 14–16: Canada

2010

February 8–15: Kuwait and Iraq

May 13–22: Iraq and Kuwait

July 17–23: United Kingdom, Switzerland, and Denmark

August 7–16: Afghanistan

August 20–28: Kuwait and Afghanistan

October 8–15: Turkey and England

November 8–18: Afghanistan

November 30–December 8: Iraq

December 5–10: Germany

2011

January 22–28: Afghanistan

March 5–10: Qatar

March 14–26: Afghanistan and Kuwait

Domestic trips

2009

Lowell, Massachusetts, *Defense Contract Audit Agency*
Dallas, Texas, *Defense Contract Audit Agency*
Rock Island, Illinois, *U.S. Army Logistics Civil Augmentation Program*
Indianapolis, Indiana, *Defense Finance and Accounting Service*
Orlando, Florida, *Department of Defense Procurement Conference*
Atlanta, Georgia, *U.S. Army Central Command, G-7*
Tampa, Florida, *U.S. Central Command*
Orlando, Florida, *Program Executive Office for Simulation, Training, and Instrumentation*
Baton Rouge, Louisiana, *Triple Canopy, Inc.*
Irving, Texas, *Defense Contract Audit Agency*
Ft. Worth, Texas, *DynCorp International LLC*
Rock Island, Illinois, *U.S. Army Rock Island Contracting Center*
Philadelphia, Pennsylvania, *Defense Logistics Agency (Troop Support)*
Tampa, Florida, *U.S. Central Command*
Atlanta, Georgia, *Defense Contract Management Agency*
Huntsville, Alabama, *U.S. Army Aviation and Missile Command*
Warren, Michigan, *U.S. Army Tank and Automotive Command*
San Antonio, Texas, *Air Force Center for Engineering and the Environment*
Panama City, Florida, *Air Force Contract Augmentation Program*
Moyock, North Carolina, *Xe Services LLC*
Ft. Monmouth, New Jersey, *U.S. Army Communications and Electronics Command*
Ft. Leavenworth, Kansas, *U.S. Army Combined Arms Center, School of Command Preparation*
Houston, Texas, *Defense Contract Audit Agency*

2010

Tampa, Florida, *U.S. Central Command*
Tampa, Florida, *U.S. Special Operations Command*
Springfield, Virginia, *Defense Contract Management Agency*
Houston, Texas, *KBR*
San Antonio, Texas, *U.S. Air Force Air Education and Training Command Contracting Squadron*
San Antonio, Texas, *Joint Contracting Command-Iraq/Afghanistan Contract Closeout Task Force*
Daytona Beach, Florida, *Defense Contract Management Agency*
San Diego, California, *National Contract Management Association Conference*
Las Vegas, Nevada, *DoD Past-Performance Conference*
Ft. Leavenworth, Kansas, *U.S. Army Combined Arms Center, Center for Army Lessons Learned*
Orlando, Florida, *Department of Defense Procurement Conference*
Monterey, California, *Naval Postgraduate School*
Carlisle, Pennsylvania, *U.S. Army War College, U.S. Army Peacekeeping and Stability Operations Institute*

Rock Island, Illinois, *U.S. Army Rock Island Contracting Center*
Monterey, California, *Naval Postgraduate School*
Philadelphia, Pennsylvania, *Defense Logistics Agency (Troop Support)*
Burlingame, California, *Environmental Chemical Corporation*
Chambersburg, Pennsylvania, *3rd Expeditionary Sustainment Command, U.S. Army*
Kettering, Ohio, *U.S. Air Force Institute of Technology*
San Antonio, Texas, *Air Force Center for Engineering and the Environment*
Englewood, Colorado, *CH2M HILL, Inc.*
Suffolk, Virginia, *U.S. Joint Forces Command*
Springfield, Virginia, *Defense Contract Management Agency*
Ft. Lauderdale, Florida, *National Contract Management Association*
Ft. Drum, New York, *U.S. Army Battle Command Training Center*
Tampa, Florida, *U.S. Central Command J4 Contracting*
San Francisco, California, *American Bar Association*
Chantilly, Virginia, *National Contract Management Association Legislative Update*
Ft. Bragg, North Carolina, *U.S. Army 18th Airborne Corps*
Philadelphia, Pennsylvania, *National Procurement and Grant Fraud Conference*

2011

Ft. Leavenworth, Kansas, *U.S. Army Combined Arms Center, Command and General Staff College*
Rock Island, Illinois, *U.S. Army Sustainment Command*
Scott Air Force Base, Illinois, *U.S. Transportation Command*
Rock Island, Illinois, *U.S. Army Logistics Civil Augmentation Program*
Scottsdale, Arizona, *Professional Services Council Conference*
Huntsville, Alabama, *U.S. Army Materiel Command*
Miami, Florida, *U.S. Southern Command*
Orlando, Florida, *Department of Defense Procurement Conference*
Monterey, California, *Naval Postgraduate School Acquisition Research Symporium*
Grapevine, Texas, *Society of American Military Engineers Conference*

Additional meetings and briefings

Commissioners and professional staff participated in more than 1,000 meetings and briefings with officials from agencies engaged in contingency contracting, with think tanks, scholars and experts, and with contractors and representatives of the contracting community. We invited representatives of federal agencies with a stake in contingency contracting to meet monthly and review and discuss tentative findings.

Contractors and professional associations with whom the Commission met to discuss their experiences and observations included:

AECOM Government Services; Aegis Defense Services LLC; Agility Defense & Government Services, Ltd; AMEC Earth & Environmental, Inc.; ANHAM; ArmorGroup North America, Inc.; Black & Veatch Special Projects Corporation; Blackwater Worldwide; CACI International, Inc.; CH2M HILL, Inc.; Compass Integrated Security Solutions; Contrack International; DAI; The Diplomat Group LLC; DynCorp International LLC; Environmental Chemical Corporation; Fluor Corporation; General Dynamics Information Technology; Global Linguistic Solutions, LLC; International Stability Operations Association; ITT Systems Corporation; KBR; L-3 Communications Services Group; Lakeshore Engineering Services, Inc.; The Louis Berger Group, Inc.; ManTech International Corp.; McNeil Technologies, Inc.; Mission Essential Personnel, LLC; MPRI; Nathan Associates, Inc.; National Association of Government Contractors; Northrop Grumman Corporation; Professional Services Council; RA International Services; Raytheon Company; Red Sea Company; Red Star Enterprises; Sabre International; Serco Inc.; Serka Construction; Shee Atika, Inc.; Supreme Group; Symbion Power LLC; Tamimi Global Company, Ltd; Stanley Baker Hill, LLC; Technologist, Inc.; Tetra Tech, Inc.; Torres Advanced Enterprise Solutions, LLC; Triple Canopy, Inc.; Xe Services LLC; Zafer Construction Co.

Appendix E

Military and contractor headcounts and contract data

This appendix is divided into three broad parts—military and contractor headcounts, supplier data, and contract-characteristics data.

The headcount data indicate the number of contractor personnel employed in Iraq and Afghanistan to accomplish contract requirements pursuant to awards made by the U.S. government. We compared the number of Defense contractor personnel with the corresponding number of military in theater (boots on the ground) and found approximately as many of the former as the latter. Further, the number of Defense contractor personnel varies directly with the number of military personnel, indicating the supporting nature of Defense contractors. Currently, contractor personnel are predominantly third-country nationals (TCNs) in Iraq and local nationals (LNs) in Afghanistan. Our data also include the functions performed by contractor personnel.

The data indicate that at least $192.5 billion was obligated for contracts and grants in support of the contingencies in Iraq and Afghanistan from FY 2002 to the end of the second quarter FY 2011. We project FY 2011 second-half spending will increase total obligations and grants since FY 2002 to a total of $206 billion.

The contract awards were heavily concentrated. Out of over 7,000 companies, the top 23 account for approximately 75 percent of the contract dollars.[1] The top 15 product or service categories account for approximately 75 percent of contract obligations. Logistics-support services account for approximately 25 percent of contract obligations.

The final section on contract characteristics reinforces the notion of concentration. For example, in FY 2010, the largest 1.3 percent of total actions accounted for 80 percent of total contract spending in Iraq and Afghanistan. The dominant form of contract awards is delivery orders placed under indefinite-delivery contract vehicles. Our analysis of the statistics also includes the use of various contract vehicles, the number of offers received, and the extent of competition.

1. The 23 include one multi-vendor entry coded as "miscellaneous foreign contractors."

SOURCES OF DATA

Unless otherwise noted, the sources for the data in this appendix are:

Continuously updated headcount sources

- Military Boots on the Ground—Congressional Research Service Request for Boots-on-the-Ground (BOG) for Iraq/Operation New Dawn (OND) and Afghanistan/Operation Enduring Freedom (OEF), prepared by Office of the Chairman, Joint Chiefs of Staff.
- Defense Contractor employees—Contractor Support of U.S. Operations in the USCENTCOM area of responsibility, Iraq and Afghanistan, prepared by Deputy Assistant Secretary of Defense (Program Support) quarterly February 2009 to present, prepared by Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) prior to February 2009.
- State/USAID Contractors—U.S. Government Accountability Office (GAO) Reports 10-1 and 11-1, "Contingency Contracting: DOD, State and USAID Continue to Face Challenges in Tracking Contractor Personnel and Contracts in Iraq and Afghanistan," October 2009 and October 2010.

One-time headcount studies

- Brig. Gen. William N. Phillips, Commanding General, Joint Contracting Command–Iraq/Afghanistan, memorandum, "Contractor Support of Multi-National Force-Iraq (MNF-I) Operations," July 17, 2009.
- Chairman of the Joint Chiefs of Staff (CJCS), Dependence on Contractor Support in Contingency Operations Task Force report, "An Evaluation of the Range and Depth of Service Contract Capabilities in Iraq and Implications for OCS [Operational Contract Support] Planning," presented to Commission by CAPT Pete Stamatopoulos, Supply Corps, U.S. Navy JS J-4 Chief, Logistics Services Division, March 24, 2010, 21.

Contracts data

- Federal Procurement Data System-Next Generation (https://www.fpds.gov/fpdsng_cms/). Data extracted on June 12, 2011 for actions where place of performance equaled Afghanistan, Iraq, Kuwait, Bahrain, Qatar, Pakistan, Kyrgyzstan, Kazakhstan, Turkmenistan, Tajikistan, and Uzbekistan. Dates of actions include FY 2002 through the end of the second quarter FY 2011.

Grants data

- USAspending.gov (http://www.usaspending.gov/). Data extracted on June 12, 2011 for actions where place of performance equaled Afghanistan and Iraq. Dates of actions include FY 2002 through the end of the second quarter FY 2011.

All dollar values are in then-year dollars.

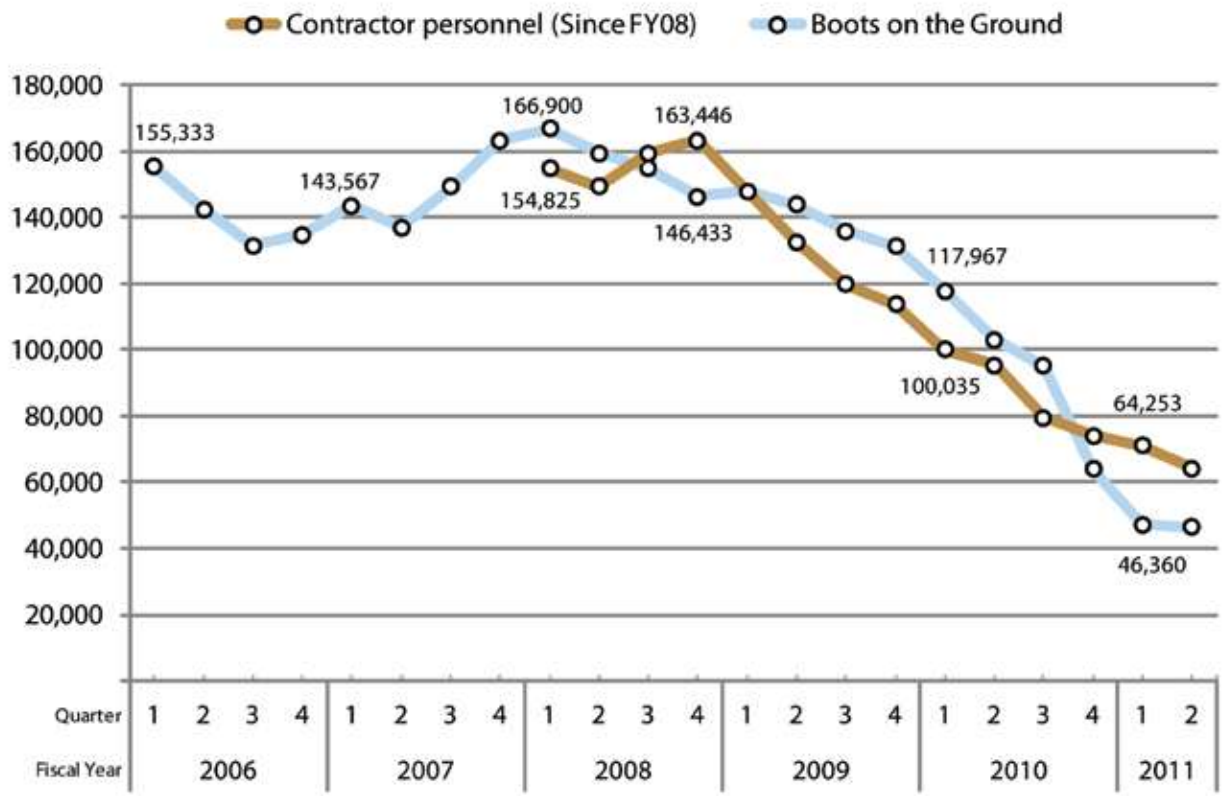
Part I: Military and contractor headcounts

IRAQ

"Boots on the Ground" vs. contractor personnel in Iraq

For Iraq, Figure E-1 depicts the number of U.S. military personnel (Boots on the Ground–BOG) and the number of Defense contractor personnel, both on a quarterly fiscal-year basis. Reporting of contractor census began in the first quarter FY 2008. As can be seen from the figure, Defense military personnel and contractor personnel closely track one another, in nearly a 1:1 ratio, although in the last few quarters as the number of military has drawn down, contractor personnel have declined at a slower pace, so now they substantially outnumber the military personnel.

Figure E-1. Boots on the Ground vs. contractor personnel in Iraq[2]



Source: Military Boots on the Ground—Congressional Research Service Request for Boots-on-the-Ground (BOG) for Iraq/OND and Afghanistan/OEF, prepared by Office of the Chairman, Joint Chiefs of Staff (JCS). Final two BOG data points are for January 10, 2011 and May 11, 2011 as reported by Defense, Joint Staff, Summary and Monthly Boots on the Ground Reports to Congress; Defense Contractor employees—Contractor Support of U.S. Operations in the USCENTCOM area of responsibility, Iraq and Afghanistan, prepared by DASD (Program Support) quarterly February 2009 to present, prepared by Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) prior to February 2009.

2. "Boots on the Ground" denotes a series of monthly data reports sent to Congress by the Department of Defense since 2008.

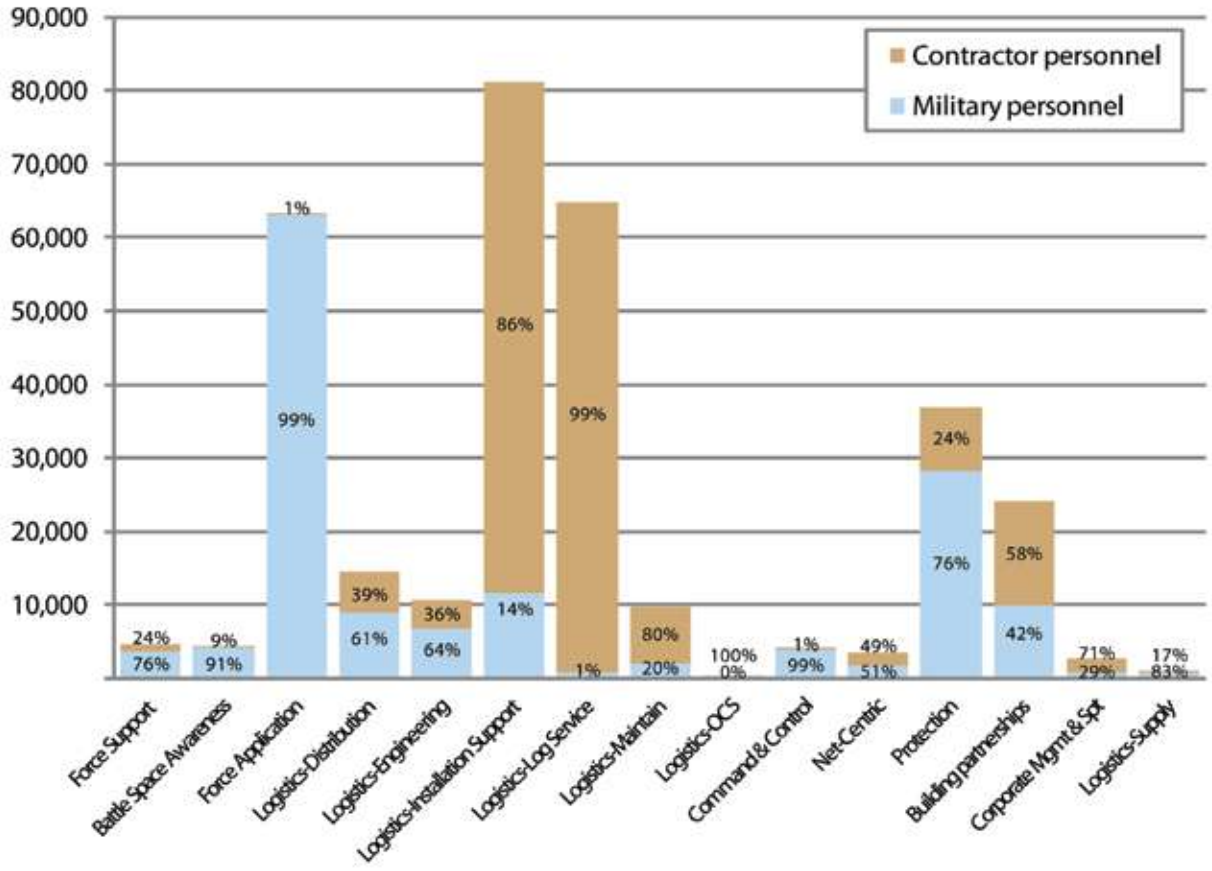
JCS military and contractor personnel by function in Iraq

Third quarter FY 2008

Figure E-2 shows the results of a one-time Joint Chiefs of Staff (JCS) study of reliance on Defense contractor personnel. It compares the number of military and Defense contractor personnel performing each of 15 functions during the third quarter FY 2008. Clearly the number of Defense contractor personnel is much higher than the number of military personnel in Logistics Services, Installation Support, Maintenance, and Corporate Management and Support. Defense contractors are also significant percentages of the total workforce in Building Partnerships, Net-Centric, Distribution, and Engineering.

Figure E-2. JCS military and contractor personnel by function in Iraq

Third quarter FY 2008

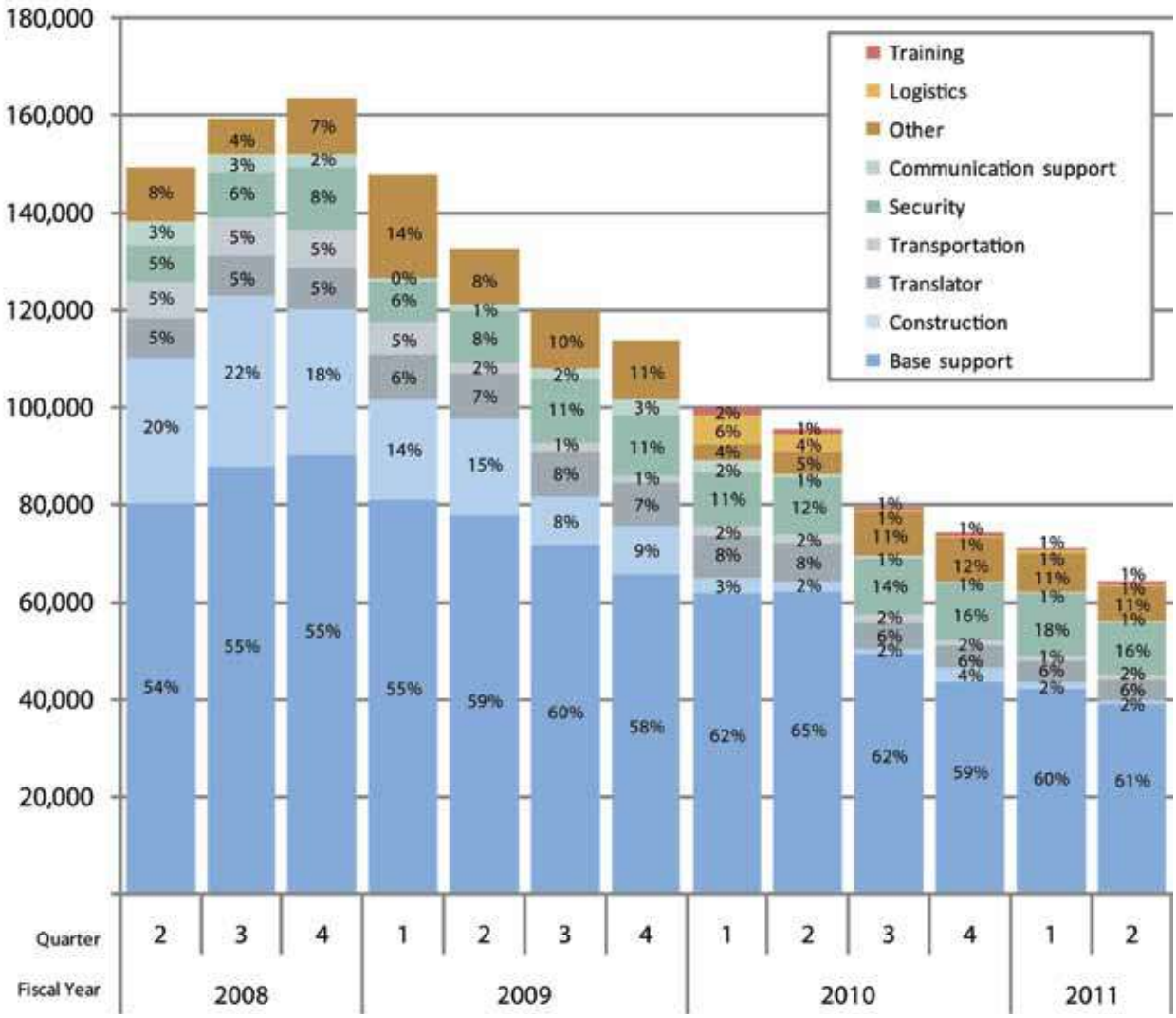


Source: CJCS Dependence on Contractor Support in Contingency Operations Task Force Report, "An Evaluation of the Range and Depth of Service Contract Capabilities in Iraq and Implications for OCS Planning," presented to Commission by CAPT Pete Stamatopoulos, Supply Corps, U.S. Navy JS J-4 Chief, Logistics Services Division, March 24, 2010, 21.

Defense contractor personnel by function in Iraq

Figure E-3 depicts the breakdown by type of work performed by Defense contractor personnel in Iraq. These breakouts have been available quarterly since the second quarter FY 2008. It shows that the bulk of Defense contractor workforce, between about 55 and 65 percent, has been providing base-support services. Construction workers have declined in number and as a percentage of the workforce. The number and percentage of security workers, however, generally has risen.

Figure E-3. Defense contractor personnel by function in Iraq

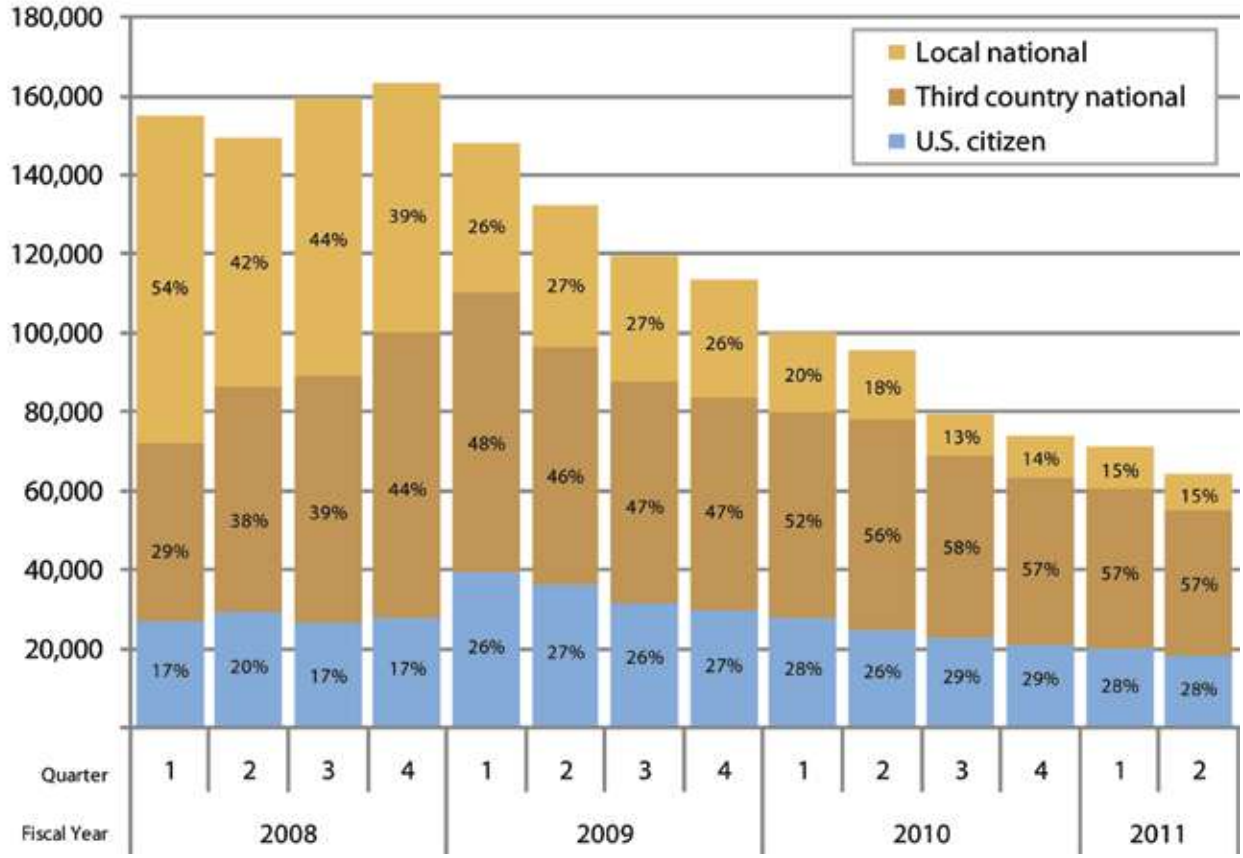


Source: Defense Contractor employees—Contractor Support of U.S. Operations in the USCENTCOM area of responsibility, Iraq and Afghanistan, prepared by Deputy Assistant Secretary of Defense (Program Support) quarterly February 2009 to present, prepared by Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) prior to February 2009.

Defense contractor personnel by nationality in Iraq

Figure E-4 depicts Defense contractor personnel by nationality in Iraq starting with the first quarter FY 2008 census. While the number of U.S. citizens has remained relatively constant over the period, their percentage has increased as other workers have left during the drawdown of troops. In particular, the number and percentage of LNs has dropped fairly dramatically both in number and as a percentage of the workforce.

Figure E-4. Defense contractor personnel by nationality in Iraq



Source: Defense Contractor employees—Contractor Support of U.S. Operations in the USCENTCOM area of responsibility, Iraq and Afghanistan, prepared by DASD (Program Support) quarterly February 2009 to present, prepared by Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) prior to February 2009.

Workforce nationality by activity performed in Iraq

Table E-1 is a one-time-only snapshot of the workforce in Iraq as of June 20, 2009. While it shows that U.S. citizens work in all areas, they are dominant in maintenance, training, communications support, and other, although the overall percentage of U.S. citizens is only 26 percent. Nearly half the workforce is TCNs, who primarily work in base support and security. LNs dominate in construction, as translators/interpreters, and in transportation. Note that the division of personnel by nationality in this June 20, 2009 breakout conforms closely to that shown for the third quarter FY 2009 in Figure E-4.

Table E-1. Workforce nationality by activity performed in Iraq

As of June 20, 2009

Mission Category	Total (% of total)	U.S.	TCN	Iraqi LN
Base life support	71,783 (60%)	18,093	43,821	9,869
Security	13,145 (11%)	773	8,686	3,686
Construction	10,090 (8%)	184	1,609	8,297
Translators/interpreters	9,128 (8%)	2,390	0	6,738
Log/maintenance	3,800 (3%)	2,778	708	314
Training	2,694 (2%)	2,397	243	54
Communications support	2,183 (2%)	2,070	65	48
Transportation	1,616 (1%)	28	224	1,364
Other	5,267 (4%)	2,828	769	1,670
Total	119,706	31,541 (26%)	56,125 (47%)	32,040 (27%)

Source: Brig. Gen. William N. Phillips, Commanding General, Joint Contracting Command—Iraq/Afghanistan, memorandum, "Contractor Support of Multi-National Force-Iraq (MNF-I) Operations," July 17, 2009.

Civilian agency contractor and assistance personnel in Iraq

Table E-2 lists the headcount of contractor and assistance personnel in Iraq for USAID and State. USAID and State contractor and assistance personnel have remained nearly constant.

Table E-2. Civilian agency contractor and assistance personnel in Iraq

Fiscal Year	USAID	State
2010*	3,409	9,591
2009	3,347	10,606
2008	2,707	----

*USAID and State numbers as of March 31, 2010.

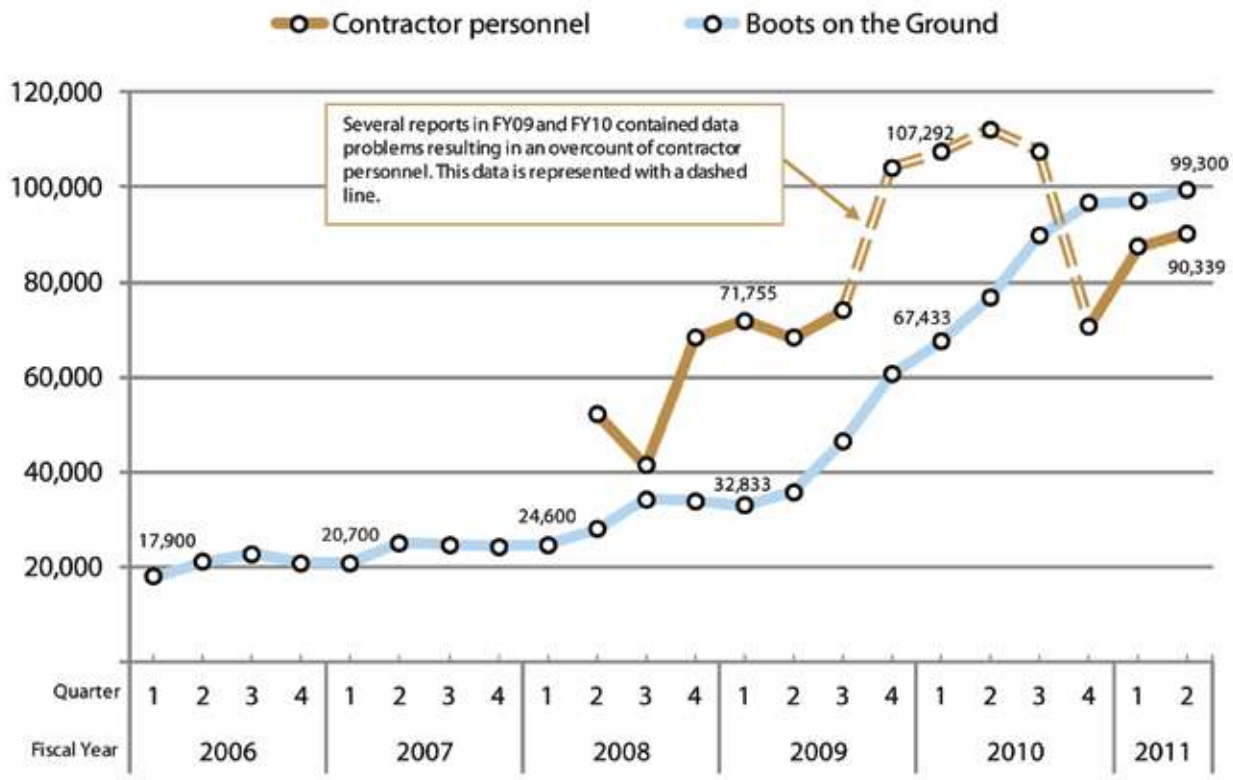
Source: GAO Report 11-1, "Iraq and Afghanistan: DOD, State, and USAID Face Continued Challenges in Tracking Contracts, Assistance Instruments, and Associated Personnel," October 2010, 44-45; GAO Report 10-1, "Contingency Contracting: DOD, State, and USAID Face Challenges in Tracking Contractor Personnel and Contracts in Iraq and Afghanistan," October 2009, 13.

AFGHANISTAN

"Boots on the Ground" vs. contractor personnel in Afghanistan

For Afghanistan, Figure E-5 depicts the number of U.S. military personnel and the number of Defense contractor personnel, each on a quarterly fiscal-year basis. The contractor census data for Defense started in the second quarter FY 2008. For several reports in FY 2009 and FY 2010, data problems resulted in an over-count of Defense contractor personnel. The numbers displayed here for that period contain the over-count since there is no way for Defense to correct the error. We believe that the values reported in the last three quarters are correct.

Figure E-5. Boots on the Ground vs. contractor personnel in Afghanistan

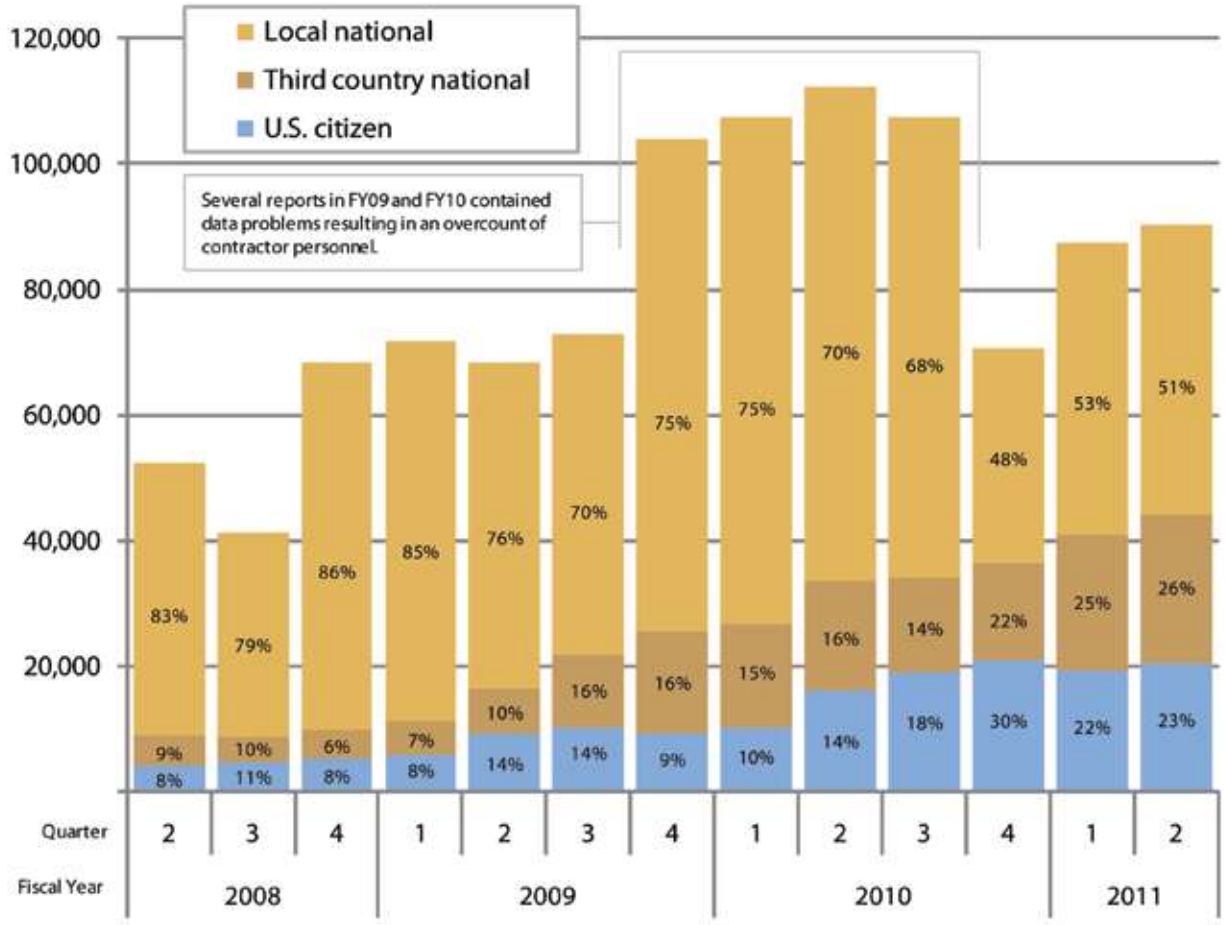


Source: Military Boots on the Ground—Congressional Research Service Request for Boots-on-the-Ground (BOG) for Iraq/OND and Afghanistan/OEF, prepared by Office of the Chairman, JCS; Defense Contractor employees—Contractor Support of U.S. Operations in the USCENTCOM area of Responsibility, Iraq and Afghanistan, prepared by DASD (Program Support) quarterly February 2009 to present, prepared by Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) prior to February 2009.

Defense contractor personnel by nationality in Afghanistan

Figure E-6 depicts Defense contractor personnel by nationality in Afghanistan starting with the second quarter FY 2008 census. As noted above, for several reports in FY 2009 and FY 2010, data problems resulted in an unknown over-count of Defense contractor personnel and are displayed as reported. The numbers and percentage of the workforce of U.S. citizens and of TCNs has grown from period to period, with the number of LNs remaining somewhat more constant.

Figure E-6. Defense contractor personnel by nationality in Afghanistan



Source: Defense Contractor employees—Contractor Support of U.S. Operations in the USCENTCOM area of responsibility, Iraq and Afghanistan, prepared by DASD (Program Support) quarterly February 2009 to present, prepared by Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) prior to February 2009.

Civilian agency contractor and assistance personnel in Afghanistan

Table E-3 lists the headcount of contractor and assistance personnel in Afghanistan for USAID and State. Growth in USAID contractor and assistance personnel since 2008 has been substantial.

Table E-3. Civilian agency contractor and assistance personnel in Afghanistan

Fiscal Year	USAID	State
2010*	32,359	9,719
2009	34,237	8,846
2008	12,955	---

*USAID and State numbers as of March 31, 2010.

Source: GAO Report 11-1, "Iraq and Afghanistan: DOD, State, and USAID Face Continued Challenges in Tracking Contracts, Assistance Instruments, and Associated Personnel," October 2010, 44-45; GAO Report 10-1, "Contingency Contracting: DOD, State, and USAID Face Challenges in Tracking Contractor Personnel and Contracts in Iraq and Afghanistan," October 2009, 13.

Part II: Supplier data

The data presented in the next two sections were obtained from the Federal Procurement Data System-Next Generation (FPDS-NG) and USAspending.gov.

FPDS-NG is the single authoritative repository for federal procurement-award data and USAspending.gov is a searchable website which includes information on grants and cooperative agreements. We used FPDS-NG to identify contract actions undertaken in support of contingency operations in Iraq and Afghanistan. We extracted contract-action data covering the time period October 1, 2001 through March 31, 2011 (FY 2002–first half of FY 2011) for those actions coded as place of performance in Iraq, Afghanistan, Kuwait, Bahrain, and Qatar, as well as Pakistan, Uzbekistan, Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan, which are referred to later in this section as "other."

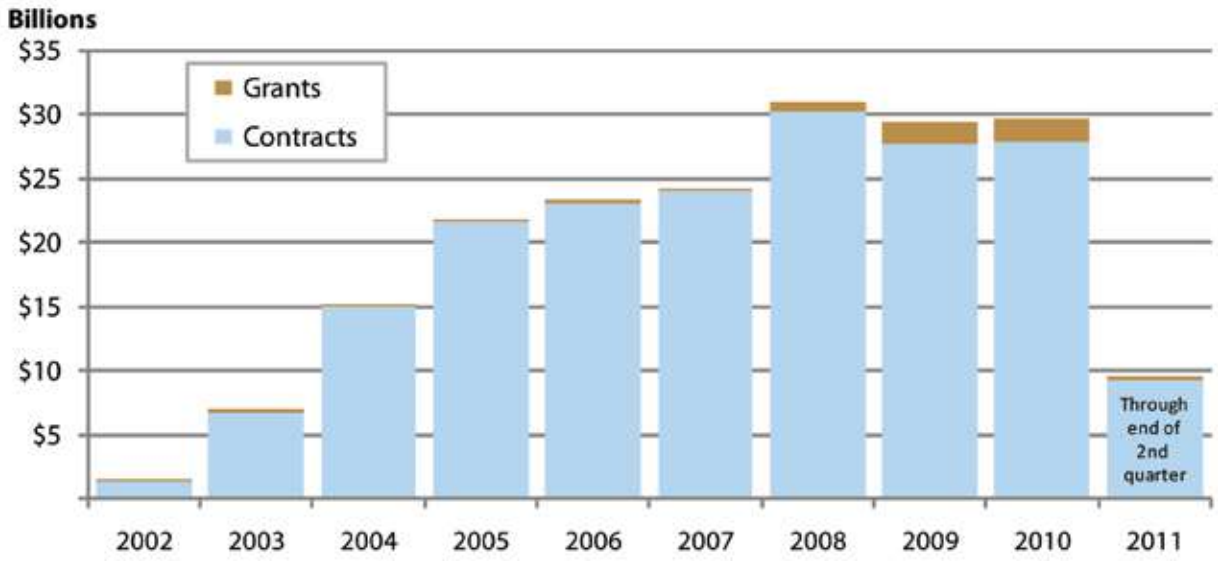
Obligations and grants

Figure E-7 shows annual contract obligations from FPDS-NG. It is based on the place of performance in one of the aforementioned countries during FY 2002 through the end of the second quarter FY 2011. While some spending in the countries outside of Afghanistan and Iraq would be for indigenous support, the bulk of the obligations during this time period are believed to have resulted from support to Iraq and Afghanistan, and therefore we included these obligations. Figure E-7 also depicts grants data from USAspending.gov, where the place of performance was indicated as Iraq or Afghanistan. Grants and assistance performed outside of Iraq and Afghanistan are not included in the grants value shown.

Note that our estimate of spending in support of contingency operations in Iraq and Afghanistan is based on actions with place of performance in Iraq, Afghanistan, or the other neighboring countries indicated above. This estimate is conservative because it omits spending elsewhere, where some or all of the spending was for contingency support. For example, mine-resistant, ambush-protected (MRAP) vehicles and tethered-aerostat radar systems for surveillance that are produced in the U.S. but used in Iraq and/or Afghanistan would not be included in our total spending estimate using this methodology.

Defense, State, and USAID contract and grant spending total about $192.5 billion, of which about $187.2 billion is contracts and $5.3 billion is grants and assistance by State and USAID.

Figure E-7. Summary of contract obligations and grants in support of Afghanistan and Iraq



Source: FPDS-NG and USAspending.gov, FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Top contractors

As shown in Table E-4 below, the top 23 companies (out of over 7,000), each with more than $1 billion in obligations, account for approximately 75 percent, or $139 billion, of the $187.2 billion obligated on contracts from FY 2002 through the end of the second quarter FY 2011 as reported in the FPDS-NG (not including $5.3 billion in grants). The "Miscellaneous Foreign Contractors" category, which is second largest, represents an unknown number of individual companies. This category is often used for the purpose of obscuring the identification of the actual contractor. Where possible, we consolidated company totals to take into account misspellings or different spellings that occur in FPDS-NG. For example, DynCorp; DynCorp International; DynCorp Technical Services, Inc.; DynCorp International Limited Liability Company; DynCorp International LLC; and DynCorp Intl were various "vendor names." They were consolidated to arrive at a total award amount for the company.

Table E-4. Top contractors

Contractor	Obligations
Kellogg Brown & Root	$40,809,523,872
"Miscellaneous Foreign Contractors"	38,469,964,913
Agility	8,997,331,923
DynCorp	7,400,931,324
Kuwait Petroleum Corporation	4,996,816,548
Fluor Intercontinental, Inc.	4,980,491,549
The Bahrain Petroleum Company	4,972,411,826
Combat Support Associates	3,574,716,549
ITT Federal Services International	3,373,303,718
The Louis Berger Group Inc.	2,334,985,976
International Oil Trading Company, LLC	2,132,465,619
Readiness Management Support, LC	2,025,615,609
L-3 Communications	1,724,298,992
Red Star Enterprises LTD	1,662,505,265
IAP Worldwide Services, Inc.	1,512,551,618
Environmental Chemical Corporation	1,496,535,802
Perini Corporation	1,475,913,905
Blackwater Lodge and Training Center, Inc.	1,457,774,831
Contrack International Inc.	1,357,523,598
Triple Canopy Inc.	1,167,982,337
DAI/Nathan Group LLC	1,092,399,269
Washington Group International	1,082,488,343
BearingPoint, LLC	1,029,116,382
Total	**$139,127,649,771**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Top goods and services purchased

Table E-5 below shows the 15 largest categories of products and services bought in support of operations in Iraq and Afghanistan from FY 2002 through the end of the second quarter FY 2011. The $139.7 billion in obligations represented by these top products and services as reported in FPDS-NG add up to approximately 75 percent of the total obligations. Such data can provide a useful guide for future planning purposes. The use of product or service code "9999" by government contracting personnel for miscellaneous items has been widely used and limits our ability to accurately portray all categories of war spending.

Table E-5. Largest categories of products and services acquired for Iraq and Afghanistan

Code	Product or service code description	Obligations	% of Total obligations
R706	Logistics support services	$46,501,547,395	25%
9999	Miscellaneous items	25,732,014,855	14%
9130	Liquid propellants or fuel-petroleum base	16,652,161,060	9%
Y199	Construction of miscellaneous buildings	10,463,213,899	6%
8910	Dairy foods and eggs	6,623,554,123	4%
R421	Technical assistance	5,503,840,044	3%
R499	Other professional services	5,237,673,990	3%
S206	Guard services	3,806,774,413	2%
Z111	Maintenance, repair, or alteration of office buildings	3,526,532,535	2%
Y111	Construction of office buildings	2,991,904,074	2%
X300	Lease or rental of restoration of real property	2,782,985,687	1%
9140	Fuel oils	2,689,797,800	1%
S216	Facilities operations support services	2,469,785,092	1%
R408	Program management/support services	2,371,459,280	1%
J023	Maintenance and repair of ground effect vehicles, motor vehicles, trailers, and cycles	2,369,125,809	1%
Largest categories of products and services acquired for Iraq and Afghanistan, total		**$139,722,370,056**	**74.6%**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Concentration ratios for top four contractors by product or service code

Table E-6 below shows the concentration of vendors as measured by the percentage of total awards to the top four firms in each product or service code listed. Concentration ratios showing the market share of the top firms are often used as an indication of market power when considering the competitive characteristics of a market. A concentration ratio of over 80 percent by the top four firms indicates a very highly concentrated market. As noted below, many of the top product or service-code categories are highly concentrated with the top four firms receiving over 80 percent of the contracts in each category. In some cases a single firm alone has over 80 percent of the market share.

Table E-6. Concentration ratios for top four contractors by product or service code

Code	Product or service code description	FY 2002-end of 2nd Quarter FY 2011 Obligations	Low concentration	Moderate concentration	High concentration
R706	Logistics support services	$46,501,547,395			X[1]
9999	Miscellaneous items	25,732,014,855			
9130	Liquid propellants or fuel-petroleum base	16,652,161,060		X	
Y199	Construction of miscellaneous buildings	10,463,213,899		X	
8910	Dairy foods and eggs	6,623,554,123			X[2]
R421	Technical assistance	5,503,840,044		X	
R499	Other professional services	5,237,673,990		X	
S206	Guard services	3,806,774,413		X	
Z111	Maintenance, repair, or alteration of office buildings	3,526,532,535		X	
Y111	Construction of office buildings	2,991,904,074		X	
X300	Lease or rental of restoration of real property	2,782,985,687			X[3]
9140	Fuel oils	2,689,797,800			X
S216	Facilities operations support services	2,469,785,092			X[4]
R408	Program management/support services	2,371,459,280		X	
J023	Maintenance and repair of ground-effect vehicles, motor vehicles, trailers, and cycles	2,369,125,809			X[5]

1. One vendor accounts for 79 percent of the obligations.
2. One vendor accounts for 92 percent of the obligations.
3. One vendor accounts for 99 percent of the obligations.
4. One vendor accounts for 73 percent of the obligations.
5. One vendor accounts for 67 percent of the obligations.

Note: Based on obligations to the top four companies. "Low Concentration" indicates top four firms account for less than 20 percent of obligations. "Moderate Concentration" means top four firms have 20 to 80 percent. "High Concentration" means top four firms have more than 80 percent.

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Largest contracts

Tables E-7 through E-9 depict the largest contracts in support of Iraq and Afghanistan. Consolidating all the actions (delivery orders, task orders, and modifications) under the contract to which they relate shows the high dollar value of a few contracts. For example, the largest 15 contracts in Iraq account for over 48 percent of the total contract dollars obligated in Iraq.

Table E-7. Largest 15 contracts in Iraq

Iraq					
IDV/contract #	**Code**	**Product or service code description**	**Contractor**	**Product or service code subtotal**	**IDV/contract total**
DAAA0902D0007	AD23	Services (advanced)	Kellogg Brown & Root	$576,026	
	R706	Logistics support services		30,272,068,379	
	DAAA0902D0007 Total				**$30,272,644,405**
DACA6303D0005	3835	Petroleum production-dist eqpt	Kellogg Brown & Root	(3,195,723)	
	X300	Lease-rent of restoration		2,779,891,885	
	Y300	Construct/restoration		5,322,398	
	Z299	Maint, rep/alter/all other		244,800,000	
	Z300	Maint, rep-alt/ restoration		(942,737)	
	DACA6303D0005 Total				**$3,025,875,823**
SLMAQM04C0030	AD25	Services (operational)	DynCorp	58,398,484	
	R408	Program management/ support services		789,477,225	
	R499	Other professional services		1,293,398,272	
	Z169	Maint-rep-alt/other residential bldg		1,406,636	
	SLMAQM04C0030 Total				**$2,142,680,617**
SP060007D0483	9130	Liquid propellants-petroleum base	International Oil Trading Company Limited		1,081,175,104
W91GXX05D0001	9999	Miscellaneous items	Miscellaneous Foreign Contractors		1,068,938,580
SP060009D0515	9130	Liquid propellants-petroleum base	International Oil Trading Company Limited		1,051,290,515
W91GY005D0001	9999	Miscellaneous items	Miscellaneous Foreign Contractors		1,036,119,038
SAQMPD05D1098	S206	Guard services	Blackwater Lodge and Training Center, Inc.		976,971,154

Continued on next page

Table E-7. Largest 15 contracts in Iraq (continued)

W912ER04D0004	AD25	Services (operational)	Fluor Intercontinental, Inc.	8,028,049	
	Y199	Construct/misc bldgs		387,948,951	
	Z299	Maint, rep/alter/all other		448,532,115	
	W912ER04D0004 Total				**$844,509,116**
FA890304D8672	C119	Other buildings	Environmental Chemical Corporation	10,193,659	
	C130	Restoration		3,332,433	
	C219	Other architects & engin gen		142,290,826	
	Y199	Construct/misc bldgs		38,505,763	
	Z111	Maint-rep-alt/office bldgs		619,648,232	
	FA890304D8672 Total				**$813,970,913**
W91GXY05D0001	9999	Miscellaneous items	Miscellaneous Foreign Contractors		713,018,409
W912ER04D0008	Y112	Construct/conf space & facilities	Perini Corporation	25,385,608	
	Y159	Construct/other industrial bldgs		184,085,287	
	Y199	Construct/misc bldgs		503,341,340	
	Z199	Maint-rep-alt/misc bldgs		(304,336)	
	W912ER04D0008 Total				**$712,507,899**
AIDDFDI000500221	R421	Technical assistance	Management Systems International, Inc		633,766,006
W91GDW07D7001	9999	Miscellaneous items	Miscellaneous Foreign Contractors		596,142,189
SAQMPD05D1100	S206	Guard services	Triple Canopy Inc.		587,587,401
				Largest 15 contracts in Iraq, total	**$45,557,197,168**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Similarly, Table E-8 shows that the largest 15 contracts in Afghanistan represent 35 percent of the total contract obligations there.

Table E-8. Largest 15 contracts in Afghanistan

Afghanistan					
IDV/contract #	**Code**	**Product or service code description**	**Contractor**	**Product or service code subtotal**	**IDV/contract total**
DAAA0902D0007	R706	Logistics support services	Kellogg Brown & Root		$3,289,414,148
W52P1J07D0008	R706	Logistics support services	Fluor Intercontinental, Inc.		3,148,524,268
SLMAQM04C0030	R408	Program management/ support services	DynCorp	614,914,064	
	R499	Other professional services		1,025,555,185	
	R699	Other administrative support services		294,415,830	
	R706	Logistics support services		35,199,129	
	U003	Reserve training (military)		27,025,878	
	SLMAQM04C0030 Total				**$1,997,110,086**
W52P1J07D0007	R706	Logistics support services	DynCorp		1,838,598,750
SP060008D1017	9130	Liquid propellants-petroleum base	Red Star Enterprises LTD		1,288,961,591
F3460197D0425	J015	Maint-rep of aircraft	L-3 Communications AeroSpace LLC	637,066,104	
	J016	Maint-rep of aircraft components		457,218,165	
	F3460197D0425 Total				**$1,094,284,269**
AID306I000600517	AD66	Construction (management/support)	The Louis Berger Group Inc.	112,107,761	
	C123	Electric power generation (EPG)		12,476,186	
	C214	A&E management engineering services		2,542,200	
	R421	Technical assistance		851,455,607	
	R425	Engineering and technical services		7,886,941	
	R499	Other professional services		7,040,000	
	AID306I000600517 Total				**$993,508,695**
W912ER04D0003	R799	Other management support services	Contrack International Inc.	13,638,172	
	Y124	Construction of airport runways		2,242,231	

Continued on next page

Table E-8. Largest 15 contracts in Afghanistan (continued)

	Y129	Construct/other airfield structures		5,702,355	
	Y199	Construct/misc bldgs		692,178,813	
	W912ER04D0003 Total				**$713,761,571**
AID306C000700508	R421	Technical assistance	BearingPoint, LLC		597,114,315
W9113M07D0006	AC23	R&D-missile & space sys - advanced dev	Lockheed Martin Integrated Systems Inc.		528,784,882
W912BU05D0004	C123	Electric power generation (EPG)	Inglett & Stubbs, LLC	423,123,517	
	C124	Utilities		22,039,134	
	S112	Electric services		31,544,664	
	Y127	Construct/elct & comms systems facilities		14,391,473	
	Y249	Construction of other utilities		5,046,427	
	W912BU05D0004 Total				**$496,145,214**
W91CRB05D0014	R499	Other professional services	MPRI, Inc.		471,952,442
FA890306D8505	Y111	Construction of office buildings	Lakeshore Engineering Services	0	
	Y199	Construct/misc bldgs		320,216,734	
	Z111	Maint-rep-alt/office bldgs		116,100,017	
	FA890306D8505 Total				**$436,316,751**
SAQMMA10C0255	Y111	Construction of office buildings	Caddell Construction Co., Inc.		416,029,000
SLMAQM04C0033	6910	Training aids	PAE Government Services Inc.	52,196,215	
	R408	Program management/ support services		168,156,608	
	R421	Technical assistance		83,742,733	
	R499	Other professional services		103,118,225	
	SLMAQM04C0033 Total				**$407,213,781**
Largest 15 contracts in Afghanistan, total					**$17,717,719,763**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Finally, Table E-9 shows the largest five contracts in Kuwait, Bahrain, Qatar, and "other." The majority of the contracts are for fuel or liquid propellants-petroleum base.

Table E-9. Largest five contracts in Kuwait, Bahrain, Qatar, and other

Kuwait, Bahrain, Qatar, and other						
Place of Performance	**IDV/contract #**	**Code**	**Product or service code description**	**Contractor**	**Product or service code subtotal**	**IDV/PIID Total**
Kuwait	DASA0299C1234	M199	Oper of govt misc bldgs	Combat Support Associates	$68,331,285	
		R706	Logistics support services		3,506,385,264	
		DASA0299C1234 Total				**$3,574,716,549**
Kuwait	SPM30008D3196	8910	Dairy foods and eggs	Agility	2,377,326,181	
		8920	Bakery and cereal products		350,190,025	
		SPM30008D3196 Total				**$2,727,516,206**
Kuwait	DAAA0902D0007	R706	Logistics support services	Kellogg Brown & Root		2,501,808,816
Kuwait	W91RUS06C0002	D304	ADP svcs/ telecomm & transmission	ITT Federal Services International		1,293,597,404
Kuwait	W52P1J05D0003	J023	Maint-rep of vehicles-trailers-cycles	ITT Federal Services International		1,234,539,376
Bahrain	SP060009D0453	9130	Liquid propellants-petroleum base	The Bahrain Petroleum Company		1,750,998,108
Bahrain	SP060008D0455	9130	Liquid propellants-petroleum base	The Bahrain Petroleum Company		533,399,399
Bahrain	SP060006D0453	9140	Fuel oils	The Bahrain Petroleum Company		391,156,700
Bahrain	SP060007D0461	9130	Liquid propellants-petroleum base	The Bahrain Petroleum Company		380,279,157
Bahrain	SP060005D0454	9140	Fuel oils	The Bahrain Petroleum Company		295,697,846
Qatar	SP060008D1033	9140	Fuel oils	Qatar Fuel		405,688,867
Qatar	DAAA0902D0007	R706	Logistics support services	Kellogg Brown & Root		277,947,505
Qatar	SP060003D0455	9130	Liquid propellants-petroleum base	National Oil Distribution Comp		219,749,735

Continued on next page

Table E-9. Largest five contracts in Kuwait, Bahrain, Qatar, and other (continued)

Qatar	F0863702D6999	S202	Fire-protection services	Readiness Mgt Support	128,205	
		S216	Facilities-operations support svcs	Readiness Mgt Support	212,470,358	
		F0863702D6999 Total				**$212,598,563**
Qatar	SP060002D0454	9130	Liquid propellants-petroleum base	National Oil Distribution Comp		178,003,450
Pakistan	SAQMMA10C0284	Y111	Construction of office buildings	BL Harbert International LLC		487,282,331
Krygyzstan	SP060007D1007	9140	Fuel oils	Mina Corp LTD		354,025,588
Krygyzstan	SP060011D1000	9130	Liquid propellants-petroleum base	Mina Corp LTD		315,180,960
Pakistan	SP060008D0484	9130	Liquid propellants-petroleum base	Nordic Camp Supply ApS		221,575,373
Pakistan	SP060005D0496	9130	Liquid propellants-petroleum base	Shell Aviation LTD		128,514,940
Largest five contracts in Kuwait, Bahrain, Qatar, and other, total						**$17,484,276,875**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Part III: Contract characteristics

FPDS-NG enables us to describe a number of the characteristics of the contracts in support of operations in Iraq and Afghanistan. The characteristics measured include an analysis of the concentration of contract actions, a separate analysis of contract types, contract methods, number of offers received, and extent competed. Generally we note that there are high concentrations of dollars in most areas.

Concentration analysis

Table E-10 shows the spending by place of performance for each year, as well as the number of actions and values that represent 80 percent of total spending. For example, in FY 2010 there were 17,224 contract actions reported in Iraq totaling nearly $7.7 billion, but only 255 of those actions (1.48 percent) accounted for 80 percent of the dollars obligated (about $6.1 billion). The same calculation annually for each place of performance shows that this pattern is fairly typical. In FY 2005-FY 2007, there is a reporting difference that could not be explained, but the overall finding is of extremely heavy concentration of dollars in a tiny fraction of the actions. Also note that a "record" in FPDS-NG may contain more than a single contract action.

Table E-10. Proportion of contract actions accounting for 80 percent of dollar obligations in Iraq and Afghanistan

Iraq						
		Total		80% of Dollars		
Fiscal Year	# of FPDS-NG records	Actions	Obligations	Actions	Obligations	% of Actions
2011 (End of 2nd qtr.)	3,202	3,210	$2,308,956,728	119	$1,849,043,783	3.71%
2010	16,184	17,224	7,671,900,609	255	6,137,520,487	1.48
2009	16,899	17,926	11,153,301,471	127	8,927,882,099	0.71
2008	27,185	27,920	16,224,162,355	409	12,979,483,463	1.46
2007	20,894	31,432	14,292,190,498	5,602	11,445,562,753	17.82
2006	9,755	15,440	14,177,539,877	3,076	11,345,131,907	19.92
2005	2,702	17,874	15,693,369,788	5,448	12,553,417,248	30.48
2004	979	979	9,761,432,534	74	7,820,128,426	7.56
2003	184	201	3,598,256,148	11	2,899,502,303	5.47
2002	4	4	43,062	1	32,702	25.00
Grand total	**97,988**	**132,210**	**$94,881,153,070**	**15,122**	**$75,957,705,171**	**11.44%**

Afghanistan						
		Total		80% of Dollars		
Fiscal Year	# of FPDS-NG records	Actions	Obligations	Actions	Obligations	% of Actions
2011 (End of 2nd qtr.)	16,151	16,173	$5,020,984,358	218	$4,017,309,090	1.35%
2010	30,950	32,745	13,549,009,354	391	10,839,492,854	1.19
2009	21,733	22,618	8,863,512,182	411	7,093,279,759	1.82
2008	14,564	15,474	7,713,535,401	225	6,173,744,559	1.45
2007	10,753	14,873	4,224,077,192	1,926	3,380,470,849	12.95
2006	5,360	12,905	3,101,921,547	4,521	2,484,023,289	35.03
2005	992	7,809	2,267,422,186	6,480	1,820,071,625	82.98
2004	444	444	998,376,485	37	801,341,438	8.33
2003	274	274	493,715,724	25	395,300,989	9.12
2002	31	31	146,785,849	2	124,391,000	6.45
Grand total	**101,252**	**123,346**	**$46,379,340,278**	**14,236**	**$37,129,425,452**	**11.54%**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Note: Data do not include grants of under $500 million in Iraq and nearly $5 billion in Afghanistan.

Contract types

Table E-11 shows that the vast bulk of contract actions are fixed price, but the small number of contract actions that are cost-type account for a disproportionate amount of the dollars obligated. For example, in Iraq over 93 percent of the actions are fixed price, but they only represent 46 percent of the dollars, while only 3 percent of the actions are cost-type contracts and they also represent 46 percent of the dollars.

Table E-11. Contract type by place of performance

Place/contract type	Total actions	Obligations	% of actions	% of obligations
Iraq	**132,210**	**$94,881,153,070**		
Fixed	123,322	44,005,960,544	93.28%	46.38%
Cost	4,234	43,968,769,624	3.20	46.34
Time and materials	961	3,417,970,079	0.73	3.60
Combination	685	1,999,100,088	0.52	2.11
Labor hour	669	1,432,789,136	0.51	1.51
(Blank)	2,316	33,190,703	1.75	0.03
Other	23	23,372,896	0.02	0.02
Afghanistan	**123,346**	**$46,379,340,278**		
Fixed	117,677	27,079,281,409	95.40	58.39
Cost	2,193	13,776,023,410	1.78	29.70
Time and materials	659	2,372,816,813	0.53	5.12
Combination	440	1,968,678,001	0.36	4.24
Labor hour	149	1,203,154,950	0.12	2.59
Other	19	72,888,385	0.02	0.16
Order dependent	2	13,740,388	0.00	0.03
(Blank)	2,207	(107,243,077)	1.79	-0.23
Other	**157,640**	**$45,961,057,913**		
Fixed	141,755	33,372,872,577	89.92	72.61
Cost	3,031	11,755,559,493	1.92	25.58
Combination	413	530,398,985	0.26	1.15
Time and materials	375	158,531,434	0.24	0.34
(Blank)	11,292	93,477,858	7.16	0.20
Labor hour	743	49,596,501	0.47	0.11
Other	31	621,065	0.02	0.00

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Contract methods

Table E-12 depicts the contract methods used from FY 2002 through the end of the second quarter FY 2011 and shows that the vast bulk of them were delivery orders against indefinite-delivery vehicles (IDVs). The next biggest category as measured by actions is purchase orders, which are typically used for lower-value obligations. In Iraq, for example, 40 percent of actions were completed by purchase order, but these actions only represented 4 percent of the dollars obligated.

Table E-12. Actions and dollars by award type and place of performance

Place/award type	Total actions	Total obligations	% of actions	% of total obligations
Iraq	**132,210**	**$94,881,153,070**		
Delivery order	59,074	76,244,664,906	44.68%	80.36%
Definitive contract	16,916	14,435,561,970	12.79	15.21
Purchase order	52,767	4,119,258,556	39.91	4.34
BPA call	3,453	81,667,637	2.61	0.09
Afghanistan	**123,346**	**$46,379,340,278**		
Delivery order	50,076	32,864,923,266	40.60	70.86
Definitive contract	18,707	10,797,334,364	15.17	23.28
Purchase order	47,927	2,176,077,903	38.86	4.69
BPA call	6,636	541,004,745	5.38	1.17
Other	**157,640**	**$45,961,057,913**		
Delivery order	113,866	33,171,469,990	72.23	72.17
Definitive contract	5,954	10,265,792,650	3.78	22.34
Purchase order	21,885	2,494,607,739	13.88	5.43
BPA call	15,935	29,187,533	10.11	0.06

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Number of single offers received

Table E-13 displays the number of times single offers were received and the extent of competition for definitive contracts as reported in FPDS-NG for FY 2002 through the end of the second quarter FY 2011. Data are presented for each agency and for the grand total on an action-count basis. We count only definitive contracts that are initial-award actions and exclude actions that represent modifications to initial awards. Also excluded are the large volume of delivery orders and other awards made as purchase orders and Blanket Purchase Agreements (BPAs).

Table E-13 shows there are 19,666 initial-award definitive contracts by Defense over this period. Of this total, 16,232 (or 82.5 percent) were awarded based on Defense receiving only a single offer. Yet, 15,778 out of the 16,232 single offers were coded as full and open competition because a competitive process was followed. [Note: We do not know whether the benefits of following a competitive process are realized by the government when only a single offer is received.]

Table E-13. Number of single offers received and competitive status of new definitive contracts

Department/ initial award (Mod = 0) number of offers received = 1	Competed under simplified acquisition procedures (SAP)	Follow on to competed action	Full and open competition	Full and open competition after exclusion of sources	Not available for competition	Not competed	Not competed under SAP	Blank	Total initial awards - definitive contracts- 1 offer received	Total initial awards- definitive contracts
USAID	1	47	54	19	1	196			318	828
Defense	10	3	15,778	112	86	234	8	1	16,232	19,666
State	10		20	8	10	56	17		121	508
Grand total	21	50	15,852	139	97	486	25	1	16,671	21,002

Source: FPDS-NG FY 2002 through end of second quarter FY 2011, data extracted June 12, 2011.

Contract method and extent of competition

Table E-14 shows the contract methods and extent of competition from FY 2002 through the end of the second quarter FY 2011, as reported in FPDS-NG. Notable is the large dollar-value of delivery orders that are reported as full and open competition. This is the result of a reporting convention that reported all delivery orders under an IDV based on the way the original IDV was reported. So, if a cost-type IDV was originally competed, then each cost-type delivery order under that IDV would also be reported as full and open competition, although the benefits of competition may not have accrued to each delivery order.

Now newer coding conventions—competitive delivery order (CDO) and non-competitive delivery order (NDO)—are to be used. The CDO code is used when firms under a multiple-award IDV are given a fair opportunity to compete on a delivery order. Until the new coding is widely implemented, the true extent of delivery order competition will be hard to determine.

Table E-14. Extent of competition by contract method and by place of performance (obligations)

Place/contract method	Competed under simplified acquisition procedures (SAP)	Competitive delivery order	Follow on to competed action	Full and open competition	Full and open competition after exclusion of sources	Non-competitive delivery order	Not available for competition	Not competed	Not competed under SAP	Un-specified	Grand Total
Iraq	**$97,279,585**	**$2,462,132,024**	**$115,261,989**	**$79,939,453,733**	**$2,735,764,053**	**$2,064,635,501**	**$405,526,427**	**$6,457,531,871**	**$58,030,955**	**$545,536,930**	**$94,881,153,070**
Delivery order	23,258,384	2,462,132,024	109,839,403	64,594,271,887	1,765,237,958	2,064,635,501	33,733,971	4,684,447,364		507,108,412	76,244,664,906
Definitive contract	16,474,980		4,367,464	11,457,419,292	903,663,500		357,863,323	1,688,459,529	6,629,432	684,450	14,435,561,970
Purchase order	46,834,255		1,037,405	3,887,496,553	66,862,595		11,997,293	84,242,746	20,718,159	69,550	4,119,258,556
BPA call	10,711,966		17,717	266,000			1,931,840	382,233	30,683,364	37,674,518	81,667,637
Afghanistan	**$686,291,601**	**$3,964,704,486**	**$6,057,563**	**$35,199,473,932**	**$1,466,105,751**	**$1,060,426,723**	**$876,643,674**	**$2,512,476,885**	**$464,860,708**	**$142,298,955**	**$46,379,340,278**
Delivery order	7,090,358	3,964,704,486	5,400,064	23,909,839,557	1,171,361,900	1,060,426,723	734,298,571	1,884,419,638	3,120	127,378,850	32,864,923,266
Definitive contract	632,092,604			9,203,442,295	258,875,257		123,195,835	579,692,700	35,672		10,797,334,364
Purchase order	43,284,894		3,390	2,025,493,198	35,868,594		16,626,957	48,325,547	6,475,324		2,176,077,903
BPA call	3,823,745		654,110	60,698,883			2,522,311	39,000	458,346,591	14,920,105	541,004,745
Other	**$928,473,541**	**$178,732,988**	**$52,227,768**	**$37,618,912,866**	**$1,271,553,682**	**$47,570,237**	**$786,750,703**	**$5,017,816,464**	**$17,762,973**	**$41,256,690**	**$45,961,057,913**
Delivery order	4,042,826	178,732,988	40,399,315	27,698,937,019	926,639,052	47,474,653	112,800,604	4,126,994,683		35,448,850	33,171,469,990
Definitive contract	18,587,821		4,509,576	9,157,175,191	329,086,368	77,789	146,325,431	602,039,756	7,990,718		10,265,792,650
Purchase order	894,232,617		7,318,877	759,715,616	15,828,262	17,795	519,898,367	288,317,845	9,270,572	7,788	2,494,607,739
BPA call	11,610,277			3,085,040			7,726,301	464,180	501,683	5,800,052	29,187,533
Grand total	**$1,712,044,727**	**$6,605,569,499**	**$173,547,320**	**$152,757,840,531**	**$5,473,423,487**	**$3,172,632,461**	**$2,068,920,805**	**$13,987,825,221**	**$540,654,636**	**$729,092,575**	**$187,221,551,260**

Source: FPDS-NG FY 2002 through end of second quarter FY 2011 data, extracted June 12, 2011.

Appendix F

Comparing costs of contingency-support services performed by military service members, federal civilians, and contractors

One factor in determining the optimal workforce mix for providing support services in a contingency is the incremental cost of using military service members, federal civilians, and private-sector contractors. But cost-comparison methodologies are controversial and often yield disparate results.

This appendix presents an analysis of the comparative costs of these support options under a number of possible circumstances, including who performs the function, the characteristics of the function, and the characteristics of the particular contingency operation. The analysis leads to three general conclusions:

NOTE: This research appendix makes no recommendation for or against using contractors. It addresses only the question of *comparing costs* between contractors and government personnel. It notes that such comparisons involve distinctions among the types of costs compared, the duration of the contingency, local labor markets, and other factors. The analysis is based on critical assumptions, and in some cases, limited availability and utility of important data elements.

This appendix does *not* address policy or legal restrictions, risks, appropriateness, mission criticality, organizational efficiency and effectiveness, desired levels of federal control, or other considerations that either could or must take precedence over straightforward cost comparisons.

1. For contingency operations that can be supported by standing military capabilities, the military is generally the most cost-effective solution.

This follows since regular pay and benefits of deployed military service members are "sunk" costs—that is, they must be paid whether the person is deployed on contingency duty in Haiti or is training in Alabama. They are not an addition to the overall cost of the contingency mission. Transport costs and special pay and benefits are incremental costs of the mission. In contrast, the full cost incurred for contractors or new federal civilian hires supporting a contingency operation would be included in the cost of the contingency.

2. For larger, prolonged contingencies that would require recruiting and hiring additional civilian personnel or increasing military-force strength to meet support needs, contractors are generally more cost effective when employing lower wage local- or third-country nationals.

For example, in Iraq about 60 percent of contractor personnel perform life- and installation-support work, and another 25 percent or more are engaged in security or construction, or act as translators/interpreters. The vast majority of these personnel are local or third-country nationals (LNs, TCNs), not U.S. citizens. The comparatively low pay and benefits for LNs and TCNs, as compared to military or U.S.-national federal civilians, enable contractors to be less costly than government in such settings.

3. In other instances, when contractors rely on U.S. citizens to acquire specialized skills or meet other requirements not available from LNs or TCNs, contractor and federal civilian personnel costs are roughly comparable.

In these circumstances, criteria other than costs will influence the preferred workforce mix between private-sector contractors and federal civilian personnel. Because military "dwell-time" costs—the costs of maintaining back-up personnel to rotate into and out of the contingency area—must be recognized when a contingency is prolonged, the U.S. military will be the most expensive option.

Background and introduction

This analysis of the incremental costs incurred to support warfighters in a contingency operation compares the costs of using full-time equivalent (FTE) military members, federal civilians, and contractor personnel. Incremental costs are added costs at the margin, not sunk costs that are included in program or budget totals. Because contingencies are not the same, the composition of incremental costs is not the same either. The costs depend not only on the function to be performed, but also on who performs it, the duration and intensity of the operation, and the force structure available when the contingency begins.

Relatively small-scale/short-lived contingencies, such as the recent contingency in Haiti, can use support capabilities that exist within available expeditionary forces. That is, the lowest-cost solution is to use existing military forces.

The incremental costs of deploying an available military-support capability include transportation, hazardous-duty pay, and other operating costs, but exclude regular pay and benefits. Pay and benefits already incurred by the government are sunk costs: they will not change if deployment for a short contingency is required.

After initial deployment, the military continues to be the lower-cost option if combat-support capability is already available within the military. The incremental operating cost to deploy a military member is estimated to be about $10,000 per year, depending on distance traveled and family status. Table F-1 shows the incremental costs to deploy a military member. This is far less than hiring a new federal civilian or obtaining support from a contractor.

Table F-1. Annual incremental costs to deploy a military service member

Transportation	Hostile fire/ imminent-danger pay	Family separation allowance (if service member has dependents)	Hardship-duty pay: Location, mission, involuntary extension in Iraq	Total
$2,500	$2,700	$3,000	$2,000	$10,200

Source: Summary of Commission calculations based on Defense data as of July 29, 2011, http://militarypay.defense.gov.

Larger-scale/prolonged contingencies, such as those in Iraq and Afghanistan, require recruiting and hiring additional civilian personnel or growing the military force structure because support requirements exceed available government resources. In these cases, contractors are generally more cost-effective. Military and civilian pay and benefits for new recruits/hires under these circumstances are included in incremental government costs. Dwell or rotation costs for the military would also be included to the extent that additional recruitment of personnel is required to fill those positions as the contingency extends beyond established rotation times.

Contractors are especially cost-effective when performing basic life-support functions if lower-priced LNs or TCNs constitute most of a contractor's workforce.[1] In Iraq, for example, three quarters of the contractor workforce consists of LNs and TCNs, who provide nearly all contracted life- and installation-support, security, and construction services.

1. The use of FTE cost comparisons assumes that government and contractor organizations are equally efficient in their use of personnel and other necessary resources. In other words, if a function required 100 military or 100 federal civilian employees to perform, we assume it would require 100 contractor employees. This assumes equivalent skill sets and task proficiency, which is not necessarily true. For example, suppose guarding a forward base requires 100 highly skilled and proficient U.S. military troops. If skill sets or proficiency differ, to provide the same or a comparable level of security, the same function may require 75 or 300 contractor employees (numbers are for illustration only).

Table F-2 summarizes the study findings. For lower- and mid-level-worker skills, contractors employing local or third-country nationals are less costly than military or federal civilian employees. However, when contractors employ U.S. citizens in higher-skill positions (as may be the case with communications support and professional services), their costs are roughly equivalent to military and federal civilians in comparable grade levels. The military is substantially more expensive when the contingency extends beyond rotation cycles and dwell costs are recognized.

Table F-2. Annual cost comparison for larger scale/prolonged contingency

Skill level	Work example	Contractor billing rate	Military FTE costs	Federal civilian FTE costs
Lower	Food service	LN = $35,700 TCN = $67,600	E-3 (Private 1/C) = $86,671 ($251,758 with dwell)	WG (wage-grade, $13/hr base) = $81,189
Middle	Construction: plumber, electrician	LN = $35,700 TCN = $67,600	E-4 (Corporal) = $97,439 ($283,037 with dwell)	WG ($22/hr base) = $137,397
Higher	Communications support	U.S. citizen = $185,700 to $231,600	0-3 (Army Captain) = $175,335 ($509,309 with dwell)	GS-12, Step 5 = $178,502

Source: Contractor billing rate, see Table F-7; Military FTE costs, see Table F-4; Federal civilian FTE costs, see Table F-5.

Conclusions are based on the comparative cost of FTE workers supporting a large-scale/prolonged contingency. Comparative costs for military, federal civilian, and private-sector contractor FTEs are an approximation for the total organizational cost of performance for an activity. Data to compare the total organizational cost of performance, which depends on relative overall efficiency, are generally not available.

Cost differences can be substantial in their impact and are very sensitive to Defense's practice with regard to deployment times and refresh/training times at home, termed "dwell times," as discussed below.

Methodology: Cost-concepts and scenarios

Our general concept for measuring support costs associated with a contingency is to count those incremental costs that would be incurred in supporting a contingency operation—costs that would otherwise be absent. Costs included in this concept depend on the nature of the contingency, particularly its intensity and duration. Two possible scenarios are set out below.

- **Small-scale/short contingency:** Here the contingency can be carried out by deployment of available government resources (military and federal civilians) and even if rotation of original personnel/units occurs, replacement personnel/units are available in the existing force. In this scenario, incremental costs for government personnel include transportation, hazardous-duty pay, and post-differential/danger/overtime pay for civilians, but *exclude* normal military and civilian salary and benefits. Salary and benefits for existing military and civilians are incurred irrespective of whether there is a contingency operation.

  Substituting contractors would imply incurring incremental costs representing the full personnel costs involved (salary and benefits), plus overhead and profit, the cost of contract administration, and operating costs similar to those incurred by the government. In this situation, the use of government-only deployable resources without contractor support would be the most

cost-effective alternative for support during the contingency. Of course, when no contingency exists, peacetime costs of the government forces would continue to be incurred.[2]

- **Large-scale/prolonged contingency:** The contingency operation in this second scenario is so extensive that the available force structure would have to be augmented by new recruits, civilian hires, or contractors to meet the support requirement.

  First, the operation would be sufficiently long that stateside rotation of military personnel to fulfill dwell requirements becomes necessary and thus substantial dwell costs would be incurred. Dwell costs depend on the length of deployment, rotational time at home, and the length of the contingency. For example, one-year deployments followed by a two-year rotation require three FTEs to support a contingency lasting three years or more.

  Extending deployments and reducing rotation time reduces dwell costs but creates issues for retention, recruiting, and morale. Also, using personnel during stateside rotation to satisfy requirements that otherwise would require a new hire reduces dwell costs. Calculations were made using a dwell-multiple of three assuming a one-year deployment followed by a two-year rotation.

  Second, in the case of the federal civilian solution, incremental costs include salary and benefits of the new civilian hires required to backfill the deployed civilian's position at home. Civilian costs would also include overtime, post differential, and danger pay.

  The third alternative would be to contract for the required support. The cost of this alternative would include contractor personnel pay and benefit costs, overhead, profit, and contract administration costs incurred by the government.

Findings

The following cost analysis applies to a large-scale/prolonged-contingency scenario. It is based on current policy that the combat-support and combat service-support portion of standing military forces be maintained at a low level (to avoid high peacetime costs and maximize combat capabilities) and augmented as needed by contractors. Under this policy, providing support services by using government personnel (military or civilian) would require increasing the force structure or hiring additional civilian employees, or both. All cost elements (especially pay and benefits) would be incurred for the contingency and are thus used in our comparisons.

Military costs

Determining the cost of military personnel is complex because of the variety of special-pay categories—benefits that extend beyond the affected military department, even beyond Defense, and family situations of military members. Military compensation is unusual in that a high proportion is paid in the form of benefits—some paid out for a lifetime—rather than cash. The cash-compensation portion is relatively modest, so the actual cost used in comparative analysis depends heavily on which benefits are included. In general, military personnel receive base pay according to their rank and years of service. They also receive allowances for subsistence and housing (adjusted for locality), and may also be entitled to other special types of pay.

2. An exception to this concept would be the deployment of Guard and/or Reserve units. Their personnel would be paid on a full-time basis as opposed to much lower pay and benefit expenses during non-active status. Thus, most of their pay and benefits would be incremental in a contingency operation.

There are several alternatives typically used to determine the cost of a military member: cash compensation, regular military compensation, composite (also called programmed) rate, and the full cost to the government. In 2007, the Congressional Budget Office (CBO) summarized the most common methods of determining military compensation.[3] The most comprehensive method was used in this study: the full cost to the government.

Cash compensation: This typically includes basic pay, plus the basic allowance for subsistence, plus the basic allowance for housing (based on location and dependent status).

Regular military compensation: This includes basic pay, housing, and subsistence allowances, plus the tax advantages (foregone government revenue) on those allowances. This can also be extended to include state and local tax benefits. Benefits are added to these cash amounts. According to the CBO, "Data suggest that military personnel receive about 50 percent of their total compensation in such benefits."[4]

Composite Rate (or Programmed Amount): This consists of average basic pay plus retired-pay accrual, Medicare-Eligible Retiree Health Care (MERHC) accrual, basic allowance for housing, basic allowance for subsistence, incentive and special pay, permanent change of station expenses, and miscellaneous pay. It includes a per capita cost of $5,560 of MERHC accrual.[5] These rates are summarized in the Annual Defense Composite Rate (also known as the Programmed Amount).[6]

Full cost to Defense: Directive-Type Memorandum (DTM) 09-007 adds other factors to the composite rate to present a fuller accounting of the cost of military personnel. It adds costs for recruitment and advertising, training, subsidized groceries (commissaries), education assistance, child-development services, and other costs that are incurred through the provision of non-monetary benefits to military members.[7] This equates to the full cost to Defense.

Full cost to the government: The referenced DTM 09-007 defines full cost to the government by adding other departments' costs to those shown above. Included are:

- Department of Education for impact aid to schools,
- Department of Labor for training and employment of veterans,
- Department of the Treasury payments into the Military Retirement Fund, and
- Department of Veterans Affairs for veterans' benefits.[8]

3. Congressional Budget Office Pub. No. 2665, "Evaluating Military Compensation," June 2007, 2.

4. Ibid.

5. Office of the Under Secretary of Defense, Program/Budget, memorandum, "Department of Defense (DoD) Military Personnel Composite Standard Pay and Reimbursement Rates FY 2009."

6. Office of the Secretary of Defense, Cost Assessment and Program Evaluation, Directive-Type Memorandum (DTM) 09-007, "Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contract Support," January 29, 2010, 23.

7. Ibid., 24.

8. Ibid., 24-25.

These military cost concepts are summarized in Table F-3.

Table F-3. Summary of cost concepts for military members

Military Cost Concept	Definitions
Cash compensation	Basic pay, basic allowance for housing (BAH), basic allowance for subsistence (BAS)
Regular military compensation	*Adds to above:* Federal-tax advantage on BAH, BAS
Composite Rate	*Adds to above:* Retired-pay accrual, MERHC accrual, incentive and special pay, permanent change-of-station expenses, and miscellaneous pay *Deletes from above:* Federal tax advantage on BAH, BAS
Full cost to Defense	*Adds to above:* Costs for recruitment and advertising, training, subsidized groceries (commissaries), education assistance, child-development services, and other costs that are incurred through the provision of non-monetary benefits to military members
Full cost to the government	*Adds to above:* Department of Education for impact aid to schools, Department of Labor for the training and employment of veterans, Department of the Treasury payments into the Military Retirement Fund, and Department of Veterans Affairs for veteran's benefits

Sources: Office of the Secretary of Defense, Cost Assessment and Program Evaluation, Directive-Type Memorandum (DTM) 09-007, "Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contract Support," January 29, 2010, 24-25; Congressional Budget Office Pub. No. 2665, "Evaluating Military Compensation," June 2007, 2.

The total amount of overhead cost, such as that for headquarters operations, incurred by the government for each service member is not included in any of the cost definitions above. While presumably small for each individual, it is an unknown factor when comparing military to contractor costs, where all such costs are included in the contractor's billing rates. OMB Circular A-76, in the computations program COMPARE, uses a factor of 12 percent for overhead for government employees. We have adopted this rate as a starting point in our analysis.

Although none of the basic costing methodologies discussed above focus on the special-pay rates that are likely applicable in contingency operations, we need to include them in our discussion. In certain areas, a member of the uniformed services may be entitled to Hostile Fire/Imminent Danger pay at the rate of $225 per month.[9] This would be $2,700 over 12 months.

A service member with dependents who serves an unaccompanied tour of duty may be entitled to a family-separation allowance (FSA) of $250 per month. FSA accrues from the day of departure from the home station and ends the day prior to arrival at the home station.[10] This would total $3,000 over 12 months.

Military Hardship Duty Pay (HDP) is based on several considerations. HDP based on location (HDP-L) is intended to recognize extraordinarily arduous living conditions, excessive physical hardship, or unhealthy conditions, and ranges from $50 to $150 per month based on the level of hardship. HDP based on mission (HDP-M) is paid for performing designated hardship missions. HDP of $200 per month based on involuntary extension in Iraq is paid to those serving beyond a 12-month deployment. The maximum total of all three HDPs cannot exceed $1,500 per month.[11]

9. Office of the Under Secretary of Defense, Personnel and Readiness, Military Compensation, "Hostile Fire/Imminent Danger Pay (HFP/IDP)," as of July 29, 2011, http://militarypay.defense.gov.

10. Office of the Under Secretary of Defense, Personnel and Readiness, Military Compensation, "Family Separation Allowance," as of July 29, 2011, http://militarypay.defense.gov.

11. Office of the Under Secretary of Defense, Personnel and Readiness, Military Compensation, "Hardship Duty Pay (HDP)," as of July 29, 2011, http://militarypay.defense.gov.

In its military-compensation study, CBO added about 5 percent to total pay for these special pay rates, and we are adopting the same approach.

Based on the above, we recommend estimating military pay as shown in Table F-4. This starts with the readily available Annual Defense Composite Rate. It adds the adjustments to calculate the cost to Defense and the overall cost to the government for the military member. Then we add the factors for overhead and special-pay rates typical of a contingency operation. We did not include any treatment of the revenue consequences for the government of not taxing military benefits.

A major factor in the cost of the military is dwell time, or the time spent between deployments. This time is necessary for rest, recovery, and family time following a combat deployment, and for training and preparation time for the next deployment. At times, for example, the Army's goal has been to have 12-month deployments with 24 months of dwell time, or a 1-to-2 dwell ratio. In order to always have a unit deployed, an additional two units are required to provide sufficient dwell time. However, the Army has sometimes only been able to achieve a 1–to-1.2 dwell ratio and has said that in the future it wants to have a 1-to-2.5 dwell ratio. The calculations below used the 1-to-2 dwell ratio, but the total cost changes considerably if either 1–to-1.2 or 1-to-2.5 were used. In addition to length of deployment and dwell time, dwell costs are reduced if personnel are used during home rotation to satisfy home-based requirements that would otherwise require a new hire or a private contractor.

Table F-4. Example of military FTE cost estimates

	O-3 (Army Captain)	**E-4** (Corporal)	**E-3** (Private 1/C)
Annual Defense Composite Rate (2010 dollars)	$122,616	$56,378	$47,221
Adjustments from DTM 09-007 for Defense costs (2008 dollars)*	16,997	16,997	16,997
Additional adjustments from DTM 09-007 for other costs to the government (2008 dollars)**	12,659	12,659	12,659
Overhead (12 percent on Composite Rate)	14,715	6,765	5,667
Total FTE cost in United States	**$166,987**	**$92,799**	**$82,544**
Contingency special pay (5 percent)	8,349	4,640	4,127
Total FTE cost for year deployed	**$175,335**	**$97,439**	**$86,671**
Total with dwell ratio at 1-to-2***	$509,309	$283,037	$251,758

Notes: *Adjustments include costs for health care, education assistance, discount groceries, child development, training, recruitment and advertising, defense education activity and family assistance, manpower management, and other personnel support.

**Child education-impact aid ($928), Veterans' employment and training ($9), Treasury contribution to retirement ($7,119), Treasury contribution for concurrent receipts ($1,236), Veterans' benefits ($3,367), totaling $12,659.

*** Total costs include special pay for the one year deployed.

Sources: Office of the Under Secretary of Defense, Program/Budget, memorandum, "FY 2009 Department of Defense (DoD) Military Personnel Composite Standard Pay and Reimbursement Rates," August 18, 2008; Office of the Secretary of Defense, Cost Assessment and Program Evaluation, Directive-Type Memorandum (DTM) 09-007, "Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contract Support," January 29, 2010.

Federal civilian costs

Federal civilian employee costs in an overseas contingency are primarily driven by six factors: grade/step/salary, benefits, post differential, danger pay, overtime hours, and overhead. We used all six factors to develop the total cost to the government for federal civilian employees.

The grade and step of federal civilian employees under the General Schedule (GS) establishes their basic pay rates. When stationed overseas, they are to receive the base pay for their current grade and step.[12] For personnel stationed in the United States, those rates often have locality pay added. When a person is overseas on a temporary basis or may still have dependents living in the United States, employees may still draw locality pay based on the rate for their home station.

Some blue-collar employees in the United States are under the federal wage system of the Office of Personnel Management, which sets their pay based on pay in their local area as determined by the Department of Labor. This group would typically include such trades as plumbers and electricians, and its members are often referred to as wage-grade (WG) employees.

Benefits for federal civilian workers including retirement, health care, Medicare, and insurance are 36.25 percent of an employee's base pay.[13]

When overseas, a federal civilian employee is entitled to post-differential pay established by the Department of State. Typically, the highest rate—35 percent—will apply to a post in a contingency area. Danger pay at 35 percent, also set by the Department of State, will typically apply in a contingency area. An employee may also receive a post cost-of-living allowance; however, there currently is no additional amount for Iraq or Afghanistan.[14]

Overtime pay for work above a regular 40-hour work week is also a part of the compensation for some federal civilian employees. In the early days of a contingency operation, the number of hours may be established as a programmed amount. This may be as high as 40 hours of overtime per week. Overtime is usually paid at a rate of time-and-a-half for the employee, but is capped at the GS-9 step 5 rate of $32.90 (2010) or the person's regular hourly rate, whichever is more.[15]

It is reasonable to count as an incremental contingency-related cost all of the federal civilian's full salary and benefits while deployed, as the work being done prior to deployment must presumably be done by those remaining, possibly using overtime hours. Funds may be provided to replace the federal civilians at their home stations, but such backfills are problematic because of the difficulties of the federal hiring system and the difficulty of finding new hires with the right skills. If such backfills do occur, we assume the cost of this new hire would generally be the same as the cost of the person replaced. Given this assumption, the deployed civilian's salary and benefits are attributable to the cost of the contingency. As noted, OMB Circular A-76 uses a factor of 12 percent for overhead for government employees.

Finally, because federal civilian employees' compensation is subject to federal income tax, a recoupment of 20 percent (the average tax rate according to the Internal Revenue Service), should be deducted from the compensation costs of these employees to place federal civilian employees on a basis comparable to U.S.-citizen contractor employees or military personnel.

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12. Office of Personnel Management, Salary Table 2010-GS, as of July 29, 2011, http://www.opm.gov.

13. Office of Management and Budget memorandum M-08-13, "Update to Civilian Position Full Fringe Benefit Cost Factor, Federal Pay Raise Assumptions, and Inflation Factors used in OMB Circular No. A-76, 'Performance of Commercial Activities'," March 11, 2008.

14. Department of State, "Summary of Allowances and Benefits for U.S.G. Civilians under Department of State Standardized Regulations (DSSR)," as of August 3, 2009, http://aoprals.state.gov.

15. Office of Personnel Management, Salary Table 2010-GS, as of July 29, 2011, http://www.opm.gov.
Note: Another factor to consider is that these special-payment situations are likely to drive the employee's total compensation above the level of the salary of the Vice President of the United States, $230,700 for 2010, which is not normally allowed. However, in a contingency operation, it may be likely that this limitation will be waived by Congress, at least for Defense employees. Otherwise, a federal civilian employee reaching this ceiling would have to be replaced in theater with a comparable employee with resulting disruption and additional relocation costs. These costs are not considered in our analysis.

In Table F-5 below we provide some examples of total government costs for federal civilian workers using the above assumptions. The GS-12 step 5 is treated as a skilled journeyman-level grade in and among the general-schedule workers. The wage-grade base-pay examples are typical hourly rates the government is currently offering for plumbers, electricians, and food-service workers.[16]

Table F-5. Examples of total costs for federal civilians in contingency operations

Row	Item	GS-12, step 5	Wage grade at $22/hour (plumber/ electrician)	Wage grade at $13/hour (food service)
1	Annual salary (base)	$68,310	$45,914	$27,131
2	40 hours of overtime (50 weeks)	65,800	66,000	39,000
3	Post differential pay (35 percent)	23,909	16,070	9,496
4	Danger pay (35 percent)	23,909	16,070	9,496
5	Benefits (36.25 percent of row 1)	24,762	16,644	9,835
6	Overhead (12 percent of row 1)	8,197	5,510	3,256
7	**Total**	**$214,887**	**$166,208**	**$ 98,214**
8	Deduct federal taxes recouped (rows 1 to 4 at 20 percent)	($36,385)	($28,811)	($17,025)
9	**Total after taxes**	**$178,502**	**$137,397**	**$81,189**

Source: Office of Personnel Management, Salary Table 2010-GS, as of July 29, 2011, http://www.opm.gov.

Contractor costs

The cost of contractor support depends critically on the skill level needed, location, labor-market supply, and other characteristics of the particular contingency operation. Those characteristics influence how much a contractor pays to attract U.S. citizens, as well as the cost and availability of local and third-country nationals. Our comparisons are based on the government's actual experience for obtaining contractor support in Iraq.

Workforce Composition: In Iraq, about 25 percent of the contractor workforce consists of LNs. Approximately 25 percent of the workforce are U.S. citizens and the remaining 50 percent TCNs. The vast majority of the contractor workforce (60 percent) is engaged in base-support activities, mainly under the LOGCAP program. Another large portion, nearly 30 percent, divides roughly evenly among security, construction, and translation services.[17]

Services Performed: The contract workforce involved in providing support functions tends to be concentrated in one of the nationality categories. Third-country nationals dominate life-support and security services. Iraqi nationals dominate construction and translation services. U.S. citizens dominate

16. Office of Personnel Management, Salary Table 2010-GS, as of July 29, 2011, http://www.opm.gov.

17. Brig. Gen. William N. Phillips, Commanding General, Joint Contracting Command-Iraq/Afghanistan, memorandum, "Contractor Support of Multi-National Force-Iraq (MNF-I) Operations," July 17, 2009; Brig. Gen. John F. Wharton, Chief of Staff, U.S. Army Materiel Command, briefing to Commission, January 12, 2009.

communications support. See Table F-6 below for data on headcounts as of June 20, 2009. Shaded cells indicate the numerically dominant value.

Table F-6. Contractor workforce by activity performed in Iraq

As of June 20, 2009

Mission Category	Total (% of total)	U.S. citizen	Iraqi LN	TCN
Base life support	71,783 (60%)	18,093	9,869	43,821
Security	13,145 (11%)	773	3,686	8,686
Construction	10,090 (8%)	184	8,297	1,609
Translators/interpreters	9,128 (8%)	2,390	6,738	0
Logistics/maintenance	3,800 (3%)	2,778	314	708
Training	2,694 (2%)	2,397	54	243
Communications support	2,183 (2%)	2,070	48	65
Transportation	1,616 (1%)	28	1,364	224
Other	5,267 (4%)	2,828	1,670	769
Total	**119,706** (100%)	**31,541** (26%)	**32,040** (27%)	**56,125** (47%)

Note: Shaded cells represent the leading source of the workforce in each category.

Source: Brig. Gen. William N. Phillips, Commanding General, Joint Contracting Command-Iraq/Afghanistan, memorandum, "Contractor Support of Multi-National Force-Iraq (MNF-I) Operations," July 17, 2009, 1.

Table F-7 displays data on contractor FTE costs in Iraq—both direct-labor only, and fully loaded and billed. Billable rates per FTE are broken out by workforce nationality, but are reported only for a single point in time and are based on a sample of 1,000 contracts. Billable rates are a representation of the contractor's full cost to the government and include the contractor's overhead, other direct costs, and fee. Thus, billable rates are the best basis to compare contractor costs to our computation of military and federal-civilian FTE costs.

FTE Costs: Cost information is based on actual contract data on two alternative FTE cost measures: direct-labor cost per FTE and billing-cost per FTE.

The first, direct-labor cost per FTE, comes from the Army Contractor Manpower Reporting Application, where contractors are required to report direct-labor costs per FTE, exclusive of benefits, overhead, general and administrative, and other direct costs.[18] These costs are self-reported by the contractors and vary widely, with an unknown amount for the benefits that would make them more comparable to costs used elsewhere in our analysis. As a result, full use of these data was not possible.

The second measure, billing-cost per FTE, is taken from a July 17, 2009 memorandum from the Commanding General, Joint Contracting Command-Iraq/Afghanistan (JCC I/A) and are partially reproduced in a briefing presented to the Commission by the Chief of Staff, U.S. Army Materiel Command. Billing costs per FTE are based on a data sample of 1,000 contracts compiled by the Theater Financial Management Cost Team. The values presented by these sources coincide, with the exception of the FTE billing costs for U.S. citizens. For U.S. citizens, the two reported values, depending on the source, are $185,700 or $231,600.[19]

Table F-7. Contractor costs in Iraq

As of June 20, 2009

	U.S. citizen	Iraqi LN	TCN	All
Direct labor costs per FTE (excludes benefits, overhead, general and administrative, and other costs)	NA	NA	NA	$66,709 = FY 2008 $78,228 = FY 2009
Contract billing costs per FTE	$185,700 or $231,600	$35,700*	$67,600	NA

* To the extent that LNs live off base and depend on the local economy for housing and subsistence rather than having government-furnished housing, they represent an even lower relative cost to the government.

Sources: Brig. Gen. William N. Phillips, U.S. Army, Commanding General, Joint Contracting Command-Iraq/Afghanistan, memorandum, "Contractor Support of Multi-National Force-Iraq (MNF-I) Operations," July 17, 2009, 1; Brig. Gen. John F. Wharton, Chief of Staff, U.S. Army, U.S. Army Materiel Command, briefing to Commission, January 12, 2009.

18. U.S. Army, "FY 2009 Inventory of Contracts for Services."

19. Tyler Stopa and Karl Kalb, Calibre, Theater Financial Management Cost Team, telephone interview with Commission, March 9, 2010.

Conclusions

Based on the cost assumptions and data analyses presented above, heavy reliance on local nationals and third-country nationals (especially for logistics services and installation support) leads to considerable cost savings compared to the military, federal government civilians, or U.S. citizens used by contractors. Local and third-country nationals also offer significant cost advantages.

For the balance of activities that rely on contractor support using U.S. citizens, the cost advantages of contracting versus performing the function using military or federal civilians is less clear.

- For longer-term contingency operations where dwell costs are recognized, contractors are more cost-effective than military personnel.
- U.S. citizens employed by contractors are cost-comparable with the use of federal employees in similar skill or occupational categories. The relative advantage of one over the other would rest on factors other than FTE (labor) cost. The relative efficiency of the government or contractor organization performing the work in question would determine the more cost-effective source.

Appendix G
Commissioners

Michael J. THIBAULT, Co-Chair. Appointed by Speaker of the House. Jointly designated as Co-Chairman by Speaker of the House and Senate Majority Leader. Director, Navigant Consulting, 2007–2008; Chief Compliance Officer, Unisys Federal Systems, 2005–2006; Deputy Director, Defense Contract Audit Agency, 1994–2005. BA, Southern Oregon; MA, Central Michigan, 1984; CPA (retired); U.S. Army, 173rd Airborne Brigade, 1965–1968.

Christopher SHAYS, Co-Chair. Appointed by House Minority Leader. Jointly designated as Co-Chairman by House Minority Leader and Senate Minority Leader. Member, U.S. House of Representatives, for Connecticut's 4th District, 1987–2009. Formerly Chairman, then Ranking Member, Subcommittee on National Security and Foreign Affairs of the Oversight and Government Reform Committee; member, Committees on Homeland Security and Financial Services. Representative, Connecticut General Assembly, 1975–1987. Peace Corps volunteer, 1968–1970. BA, Principia College; MBA, MPA, New York University.

Clark Kent ERVIN. Appointed by Speaker of the House. Director, Homeland Security Program, Aspen Institute, 2005–present; appointed by Secretary of Homeland Security Janet Napolitano to Homeland Security Advisory Council; Member, Board of Directors, Clear Path Technologies, LLC; Inspector General, United States Department of Homeland Security, 2003–2005; Inspector General, United States Department of State, 2001–2003; Deputy Attorney General and General Counsel of Texas, 1999–2001; Assistant Secretary of State of Texas, 1995–1999; Locke, Liddell, & Sapp, LLP, Lawyer, 1993–1995; Associate Policy Director, White House Office of National Service, 1989–1991; Vinson & Elkins, LLP, Lawyer, 1985–1989. AB, Harvard; MA, Oxford; JD, Harvard.

Grant S. GREEN. Appointed by the President. Chairman, 2005–present, Chairman and President, 1996–2000, Global Marketing and Development Solutions Inc.; President, "America Supports You Fund," 2007–2009; Under Secretary of State for Management, 2001–2005; Executive Vice President and Chief Operating Officer, major consulting and marketing company, 1989–1996; Assistant Secretary of Defense, 1988–1989; Special Assistant to the President, Executive Secretary for the National Security Council, 1986–1988; senior management positions, Sears World Trade, 1983–1986. BA, Arkansas; MS, George Washington, 1979. Retired colonel, U.S. Army. Formerly Acting Co-Chair of the Commission.

Robert J. HENKE. Appointed by Senate Minority Leader. Assistant Secretary for Management (Chief Financial Officer and Chief Acquisition Officer), Department of Veterans Affairs, 2005–2009; previously, Principal Deputy Under Secretary of Defense (Comptroller); Professional Staff Member, U.S. Senate Committee on Appropriations, Subcommittee on Defense; Presidential Management Intern with the Office of the Assistant Secretary of the Navy (Financial Management & Comptroller); General Electric Company; U.S. Navy. BA, Notre Dame; MPA, Syracuse.

Katherine V. SCHINASI. Appointed by Senate Majority Leader, 2010, replacing Linda J. GUSTITUS, who served 2008–2009. Senior advisor to The Conference Board, a non-profit research organization, 2009–2010. Government Accountability Office, 1978–2009, retired as managing director for acquisition and sourcing management. Portfolio included operations in Departments of Defense, State, and Homeland Security, and cross-governmental acquisitions. Past lecturer at Defense Acquisition University, Industrial College of the Armed Forces, and Naval Postgraduate School. Appointed to federal Senior Executive Service, 1998. BA, government and politics, University of Maryland; MA, international relations, School of International Service, American University.

Charles TIEFER. Appointed by Senate Majority Leader. Professor of Law, University of Baltimore School of Law, 1995–present (government contracts, contracts, and legislation); U.S. House of Representatives, General Counsel (Acting), 1993–1994; Solicitor and Deputy General Counsel, 1984–1995. Assistant Senate Legal Counsel, U.S. Senate, 1979–1984; Trial Attorney, Civil Rights Division, U.S. Department of Justice, 1978–1979; Law Clerk, U.S. Court of Appeals for the D.C. Circuit, 1977–1978. BA, Columbia *summa cum laude*; JD, Harvard *magna cum laude*.

Dov S. ZAKHEIM. Appointed by the President. Senior Vice President, Booz Allen Hamilton, 2004–2010; Senior Fellow, CNA Corporation, 2010–present; Senior Advisor, Center for Strategic and International Studies, 2010–present; Under Secretary of Defense (Comptroller) and Chief Financial Officer, 2001–2004 (coordinator of Department of Defense civilian programs in Afghanistan, 2002–2004); Corporate Vice President, System Planning Corporation, and Chief Executive Officer, SPC International Corporation, 1987–2001; Deputy Under Secretary of Defense (Planning and Resources), 1985–1987; Department of Defense, various senior executive service positions, 1981–1985; Congressional Budget Office, 1975–1981. BA, Columbia; DPhil, Oxford.

Note: Appointing officials were those occupying office in 2008–2009.

Appendix H
Commission staff

Robert B. Dickson, *Executive Director* ■ **Jeffrey Brand,** *Deputy Executive Director*

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Appendix I
Acronyms

ACOD	Armed Contractor Oversight Division or Directorate
AFCEE	U.S. Air Force Center for Engineering and the Environment
AMC	U.S. Army Materiel Command
ANA	Afghan National Army
ANP	Afghan National Police
ANSF	Afghan National Security Forces
APPF	Afghan Public Protection Force
CAO	Chief Acquisition Officer
CENTCOM	U.S. Central Command
CERP	Commander's Emergency Response Fund
CFO	Chief Financial Officer
CIO	Chief Information Officer
COCOM	Combatant Command
COIN	Counterinsurgency
CONOC	Contractor Operations Center
COR	Contracting Officer's Representative
COTR	Contracting Officer's Technical Representative
CSTC-A	Combined Security Transition Command–Afghanistan
DCAA	Defense Contract Audit Agency
DCIS	Defense Criminal Investigative Service
DCMA	Defense Contract Management Agency
DLA	Defense Logistics Agency
DoD	Department of Defense
FAR	Federal Acquisition Regulation
FOB	Forward Operating Base
FPDS-NG	Federal Procurement Data System–Next Generation
FTE	Full-time equivalent
GAO	Government Accountability Office
GDP	Gross domestic product
ICCTF	International Contract Corruption Task Force
IDIQ	Indefinite delivery/indefinite quantity
IG	Inspector General
INL	U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs
IMCOM	U.S. Army Installation Management Command
INSCOM	U.S. Army Intelligence and Security Command
ISAF	International Security Assistance Force
JCC-I/A	Joint Contracting Command-Iraq/Afghanistan
LN	Local national
LOGCAP	Logistics Civil Augmentation Program
MEJA	Military Extraterritorial Jurisdiction Act
NSC	National Security Council

OCI	Organizational conflict of interest
OCS	Operational Contract Support
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
OTI	USAID, Office of Transition Initiatives
PSC	Private security contractor
QDDR	Quadrennial Diplomacy and Development Review
QDR	Quadrennial Defense Review
SIGAR	Special Inspector General for Afghanistan Reconstruction
SIGIR	Special Inspector General for Iraq Reconstruction
SME	Subject–matter expert
SPE	Senior Procurement Executive
SPOT	Synchronized Predeployment and Operational Tracker
TCN	Third–country national
TRANSCOM	U.S. Transportation Command
UCMJ	Uniform Code of Military Justice
USACE	U.S. Army Corps of Engineers
USAID	U.S. Agency for International Development
USFOR–A	U.S. Forces–Afghanistan

Continuing access to Commission information on the web

When the Commission on Wartime Contracting sunsets on September 30, 2011, the Commission's website will be frozen as it then exists. The University of North Texas, an affiliate of the government's National Archives and Records Administration, will maintain a publicly available record of the site's contents.

The web address or URL for the archived site will not change:

www.wartimecontracting.gov

Information available on the Commission website includes:

- this final report to Congress, plus the previously submitted two interim and five special reports;
- public hearing transcripts, testimony, and videos;
- news releases; and
- a list of meetings held by Commissioners and staff.

COMMISSION ON WARTIME CONTRACTING
IN IRAQ AND AFGHANISTAN

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